

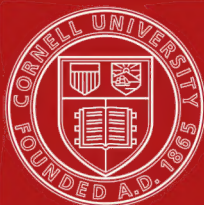
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THE
WORKS
OF
SIR WILLIAM JONES.

WITH
THE LIFE OF THE AUTHOR,
BY
LORD TEIGNMOUTH.

IN THIRTEEN VOLUMES.

VOLUME VII.

LONDON:

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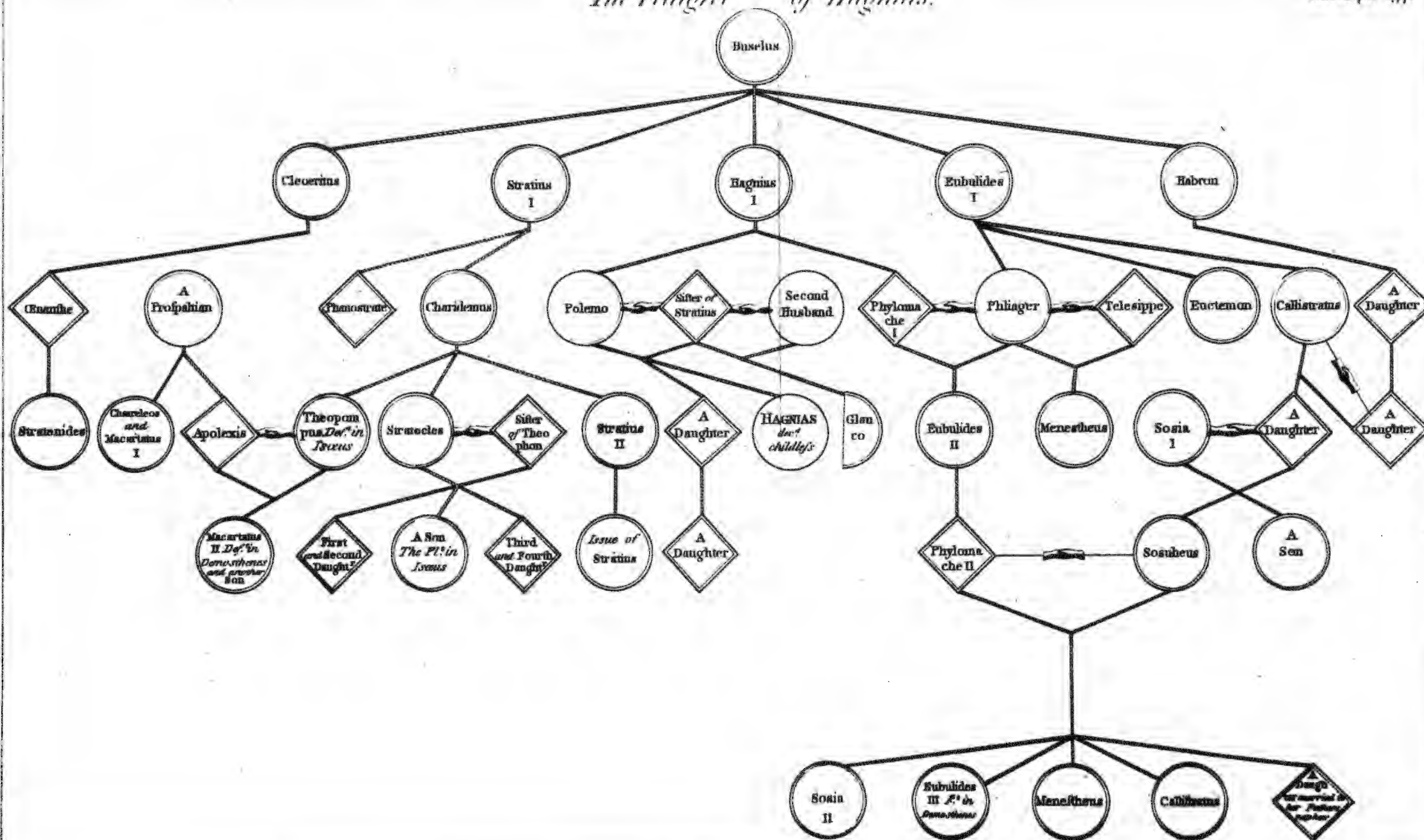
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THE SPEECHES
OF
I S Æ U S
IN CAUSES
CONCERNING THE LAW OF SUCCESSION TO PROPERTY
AT
ATHENS,
WITH
A PREFATORY DISCOURSE,
NOTES CRITICAL AND HISTORICAL,
AND
A COMMENTARY.



THE
EPISTLE DEDICATORY

TO THE
EARL BATHURST.

MY LORD,

IF I were not fully apprized of Your Lordship's contempt for that servile and adulatory style, in which patrons of eminent rank are too frequently addressed, yet my own habits and sentiments would sufficiently secure You from the uneasiness, which panegyrick most sensibly gives to those who most highly deserve it; nor should I indeed have been ambitious of obtaining any protection for the following work, which must succeed or fail by its own worth or demerit, and cannot be supported by the splendour of a name, if the obligations, which Your Lordship has conferred on me, were not of such a kind, as to call aloud for the most open and the warmest acknowledgement.

On such an occasion, it might perhaps be pardonable to deviate a little from my former

principles, and to delineate Your Lordship's character in just, yet glowing, colours; especially as my own certain and personal knowledge of it has given me the power of drawing it to the life; and, if one of two groundless imputations must necessarily be incurred, I should prefer the suspicion of being a flatterer to the charge of being ungrateful; but I must not forget that it is Yourself, whom I am addressing, and I could not write to You with pleasure what I knew You would read with pain.

I check myself, therefore, my Lord, with reluctance, and abstain from those topicks, to which the overflowing of my zeal would naturally impel me; but I cannot let slip this opportunity of informing the publick, who have hitherto indulgently approved and encouraged my labours, that, although I have received many signal marks of friendship from a number of illustrious persons, to whose favours I can never proportion my thanks, yet Your Lordship has been my greatest, my only, Benefactor; that, without any sollicitation, or even request on my part, You gave me a substantial and permanent token of regard, which You rendered still more valuable by Your obliging manner of giving it, and which has been literally the sole fruit that I have gathered from an incessant course of very painful toil; that Your kind intentions extended

to a larger field ; and that You had even determined to reward me in a manner the most agreeable both to my inclinations and to the nature of my studies, if an event, which, as it procured an accession to Your happiness, could not but conduce to mine, had not prevented the full effects of Your kindness.

It might here become me to suppress, what I cannot however persuade myself to conceal, that Your Lordship was pleased to assign the most flattering reasons for Your intention, and to declare that You desired my promotion both for my own sake, and for that of the publick; the first of which motives I ascribe to Your candour and the goodness of Your heart; the second, which I am wholly unconscious of deserving, I can impute only to Your singular benignity and indulgence.

As a benefit intended is the same in my opinion with a benefit conferred, my obligation to Your Lordship is perfectly equal; and this sentiment, I entreat You to believe, no change of situation can alter, no length of time can obliterate. I had a friend, my Lord, who knew my gratitude for the former instance of Your kindness; and He indeed was entitled to some share of it, as it was He, who procured me the honour of being known to Your Lordship: with Your late favours, unhappily for me, and un-

happily for all who were connected with him, he did not live to be acquainted.

Your Lordship perceives that I speak of Sir JAMES PORTER; whom You also called your friend, and by whom You were most truly esteemed and respected. He was a man, whose social virtues were so transcendent, that his life was spent in perpetual exertions of them, and not a day of it elapsed without some intention sincerely expressed, or some act zealously performed, for the pleasure or advantage of another; nor were his talents inferiour to his benevolence; for, during his embassy at CONSTANTINOPLE, where he gained a perfect acquaintance with the manners of the extraordinary people among whom he resided, his address and activity were so properly exerted, that the interests of our mercantile body were never better secured, nor the honour of our nation better supported. Of useful, as well as ornamental, knowledge, both in literature and science, he had considerably a greater portion than is usually possessed by men of the world; and, while he was effectually serving his country as a minister, he justly acquired the reputation of a scholar. One part of his character was no less amiable than uncommon: so totally free was he from envy, the vice of little souls, that he was always eager to encourage the appear-

ance of literary merit, wherever it could be found ; and, if any person had cultivated a particular branch of learning more assiduously than himself, he took a real pleasure in receiving information, and, what was still more rare at his age, in renouncing ancient prejudices, and retracting opinions which he allowed to have been precipitately formed.

But it is needless to expatiate on his excellent qualities, which were known to Your Lordship, as well as to many of Your common friends ; and I need only add, that his well spent life would have been completely happy, if it had lasted until he had seen You retire with dignity from the high office which You so long filled with honour, and had been witness of the splendid tranquillity which you now enjoy.

The nature and scope of the following work, which I had before imparted to Him, I took the liberty of explaining also to Your Lordship ; and, if the execution of it were conformable to the design, I might flatter myself, that it would obtain your approbation : it has antiquity at least to recommend it ; and, whatever opinion Your Lordship may justly entertain concerning the general utility of minute philological researches, yet You will be convinced, that ancient literature, properly directed, may be applied to many useful purposes beyond those intended at the school or the college.

Among other things, You will remark with satisfaction, that, how much soever the old states of Greece might have surpassed us in the productions of art and genius, yet the administration of justice, on which our common security depends, now flows in a purer stream at Westminster, than formerly at ATHENS; for the Archon sat in a tribunal, where every case was generally decided by a kind of political law, to which no precedents were applied, and from which no rules were deduced; whereas Your Lordship presided in a court where the great boundaries of property are not only distinct and visible, but irrevocably fixed, where nothing is vague or precarious, nothing left to discretionary interpretation, but where Your predecessors wisely established, and Your Lordship nobly maintained, a beautiful system of liberal jurisprudence, which, while it secures many important rights of our countrymen, contributes to the glory of our country itself by attracting the admiration of all mankind.

The laws of ENGLAND are the proper study of Englishmen; but they always shine with greater lustre, when they are compared with those of other nations; and, as Your Noble Father constantly admired the eloquence of Demosthenes, so I am persuaded that Your Lordship will not be displeased with the speeches of an orator, whom Demosthenes himself both ad-

mired and imitated : if I should not be deceived in this expectation, I shall gain a sufficient reward for my trouble in translating him, and shall feel Your Lordship's approbation of my passed, to be the strongest incentive to future labours.

I am, my Lord,
with unfeigned respect,
Your Lordship's
most obliged and
most grateful servant,

WILLIAM JONES.

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PREFATORY DISCOURSE.



THERE is no branch of learning, from which a student of the law may receive a more rational pleasure, or which seems more likely to prevent his being disgusted with the dry elements of a very complicated science, than the history of the rules and ordinances by which nations, eminent for wisdom and illustrious in arts, have regulated their civil polity : nor is this the only fruit that he may expect to reap from a general knowledge of foreign laws both ancient and modern ; for, whilst he indulges the liberal curiosity of a scholar in examining the customs and institutions of men, whose works have yielded him the highest delight, and whose actions have raised his admiration, he will feel the satisfaction of a patriot in observing the preference due in most instances to the laws of his own country above those of all other states ; or, if his just prospects in life give him hopes of becoming a legislator, he may collect many useful hints,

for the improvement even of that fabrick which his ancestors have erected with infinite exertions of virtue and genius, but which, like all human systems, will ever advance nearer to perfection and ever fall short of it. In the course of his enquiries he will constantly observe a striking uniformity among all nations, whatever seas or mountains may separate them, or how many ages soever may have elapsed between the periods of their existence, in those great and fundamental principles, which, being clearly deduced from natural reason, are equally diffused over all mankind, and are not subject to alteration by any change of place or time; nor will he fail to remark as striking a diversity in those laws, which, proceeding merely from positive institution, are consequently as various as the wills and fancies of those who enact them: such, among a thousand, are the rules by which the possessions of a person deceased, whether solid and permanent, or incorporeal and fluctuating, are transmitted to his heirs or successors, and which could never have been so capriciously diversified, if they had been founded on pure reason, instead of being left to the discretion of every society, for whose convenience they are calculated.

Sir MATTHEW HALE, to whose learning and diligence the present age is no less indebted

than his contemporaries were to his wisdom and virtue, seems to have approved the study which I recommend ; and, in his History of the Common Law, has given a summary of the rules which prevailed among the ancient Hebrews, Greeks, and Romans, concerning the hereditary transmissiion of property ; but, as he professed to touch very shortly on that subject, and was contented with transcribing the version of Petit, without having recourse to the authors by whom the originals are preserved and explained, his account of the Attick laws is remarkably superficial and erroneous. He complains, that the text is very obscure : it is indeed, as he cites it, not only dark, but corrupt ; and the sense, which he collects from it, is by no means perspicuous. A desire of removing this obscurity, and of supplying a defect, however unimportant, in the work of so great a man, first induced me to renew my acquaintance, which had been for many years interrupted, with the Athenian orators, from whose private speeches I had reason to expect the clearest light on the subject of inheritances ; and I presently recollected one of them, whose remains I had seen when I was a boy, but had been deterred, like many others, from reading them, by the difficulty of the forensick terms, which occurred in almost every page.

This was ISÆUS, a lawyer of the first class at Athens, and an advocate, as the ancient critics agree, of a strong original genius; but, as his works must have been dry, if not unintelligible, to the herd of grammarians and philologists, by whom the old monuments of Grecian learning were saved from destruction, they seem to have been greatly neglected; for, out of at least fifty of his genuine speeches, which were extant in the ninth century, ten only remain; and these, as they all relate to the Athenian laws of hereditary and testamentary succession, and give abundant satisfaction upon that head, I here present to the student of our English laws in his native language, not doubting but that they will yield him the same entertainment which they have afforded me: since, however, he will naturally expect some account of an author, with whom so few are acquainted, I will endeavour, before I resume the subject of the Attick laws, to satisfy his expectations; having first apprized him, that this ancient orator must be carefully distinguished from another of the same name, who seems to have flourished at Rome in the reign of Trajan or Domitian; for he is highly extolled in a set epistle by the younger Pliny, and incidentally by Juvenal, as a wonderfully rapid speaker, and a sketch of his life is drawn by Philostratus, who calls him an

Affyrian, and adds, that in his youth he was extremely addicted to the pleasures of love and wine, and was remarked for the foppery of his dress, but that he afterwards changed his course of life, and became, as it were, a new man; it is evident, that the declaimer, of whom they speak, had nothing in common with my author but the volubility of his language, and his name, which was probably assumed, as that of Isocrates also was taken by one of the later sophists who wrote the instructions to Demonicus.

ISÆUS, the master of Demosthenes, and the true fountain of that eloquence which afterwards flowed with so impetuous a stream, is by some supposed to have been a Chalcidian, and by others, with greater appearance of probability, an Athenian: but whatever country may claim the honour of being his birth-place, it is certain that he was educated at Athens, where he became famous as a pleader of causes after the close of the Peloponnesian war. The time of his birth may be nearly ascertained by reasoning from the known or supposed dates of his speeches; for that on the estate of Dicæogenes appears to have been delivered in the fourth year of the ninety-seventh Olympiad, or two thousand one hundred and sixty-six years ago: now it is very probable that he was then at least in his twenty-seventh year; for it has been

remarked, that both Demosthenes and Cicero began to distinguish themselves at that age; and Dionysius, on a similar occasion, supposes that Dinarchus must first have spoken in publick at the age of twenty-five or twenty-six; whence we may fairly conclude, that Isæus was not born after the ninetieth Olympiad; and we can hardly believe that he was much older, since he certainly continued to flourish as an advocate, and composed the speech on the estate of Hagnias, after the beginning of Philip's reign. If this computation be just, he could not have been regularly a pupil of Isocrates, who was born in the first year of the eighty-sixth Olympiad, but, according to the best accounts, did not open his school till the archonship of Lyfistratus, when Isæus was at least in his forty-eighth year, and in the height of his reputation: it is not, indeed, improbable, and no more, perhaps, than this was meant by Hermippus, that he might occasionally attend the lectures of so renowned a master; but it is certain, that he took pupils himself at that very time; for Demosthenes, who was then but twelve years old, and who soon after deliberated on the choice of an instructor in the art of speaking, preferred him to Isocrates, not from any difference in the prices of their instructions, as it is vulgarly supposed, but from a well-grounded opinion, as Plutarch

justly imagines, that the style and manner of Isæus were more forcible, and better adapted to the purposes of real life, than the fine polish, elegant turns, and sweet numbers, which Isocrates taught with so much refinement. This ardent and nervous diction, which Demosthenes admired, he imitated also with such success, that in his seventeenth year he pronounced the speeches now extant against his guardian Aphobus, and not long after delivered the two against Onetor, which some of the old criticks suppose to have been written, or at least corrected, by his master: we may trace, indeed, the manly features of the instructor in those and several other compositions of the illustrious pupil, whose orations on publick affairs, with which Isæus never interfered, exhibit so noble a specimen of true eloquence, that the palm has been by universal consent given to him as the first orator of Greece; yet his private speeches are not superior in force or beauty to those of his teacher, who would probably have thundered with equal energy in the assembly of Athenian citizens, if his temper and inclination had not induced him to prefer the certain advantages of a very useful profession to the precarious favours which the giddy populace bestow and resume at their pleasure. This, however, is no more than conjecture; for even the profound antiquary and ex-

cellent critick, DIONYSIUS, who has left us an admirable treatise on the style of Isæus, professes a total ignorance of his life and conduct in civil affairs; but it is obvious, that, if he had taken any part in administration, and harangued the people on important occasions, a man of his great capacity and application must soon have been distinguished by his contemporaries, and would have been mentioned with applause by the historians of his country. My opinion is likewise confirmed by the titles of his genuine speeches preserved by Harpocration, Pollux, and Apollonius, not one of which appears to have been delivered on any national question; and this may be the reason, why most of the ancients, who are so copious in praising the smoothness of Isocrates, the graces of Lyfias, the founding periods of Æschines, the dignity of Lycurgus, the united force and elegance of Hyperides, say nothing of Isæus; for all the others were eminent in public life, or at least composed orations on subjects of a publick nature: thus Lyfias added to his other excellent qualities an ardent zeal for liberty, and raised five hundred men at his own expense for the service of the state, in expelling the thirty tyrants, and restoring the popular government, which he supported also by his eloquence; and Isocrates laboured successfully to unite the Greeks in a common cause against

their old enemy the king of Persia: the political conduct of Æschines, Lycurgus, Hyperides, is generally known; and, although Dinarchus would not perhaps have attained much celebrity by the strength of his own genius, yet he has acquired a rank among the ten orators of Athens by his assiduous imitation of the great man, whom he could not but admire, even when he impeached him: as to Andocides, his offences and misfortunes would have preserved his name, if his harangue on a peace with the Lacedæmonians had been lost; and, if Antipho had left no speeches in criminal cases, yet the place, which Thucydides, who is thought to have been his pupil in rhetorick, has given him in the history of the Peloponnesian war, would have rendered him sufficiently illustrious; so that, of all the ten, Isæus alone appears to have confined his talents to the narrow limits of the bar and the composition of forensick arguments; which, however interesting to lawyers, cannot be supposed to attract the notice of scholars in general so much as the pompous and solemn orations on treaties and embassies, or the various events of an obstinate war. After all, one cannot help wondering, that, although Dionysius lived in the very age of Cicero, and was copied almost too closely by Quintilian, yet the name of Isæus is not particularly distinguished in the

rhetorical pieces of the two Romans: for this omission I can no otherwise account than by ascribing it to inadvertence or to accident; and by observing, that the fame of the Philippicks was so splendid, as not only to eclipse the reputation of a mere advocate, but even to diminish the attention due to the other productions of Demosthenes himself, whose private speeches have been almost as much neglected as those of his master.

This is all that I have been able to collect concerning the life of ISÆUS, and I now proceed to discourse more at large, but without prolixity, on his professional character and the style of his oratory, not meaning to anticipate the judgement of the publick on the following speeches, but intending to show in what estimation he was holden by the Grecian criticks, and principally by the Halicarnassian, the most learned of them all; from whom, however, I shall more than once take leave to dissent.

First, it is hard to conceive, why Dionysius, in the very beginning of his treatise, the sole object of which was to display the peculiar excellence of Isæus and the originality of his genius, should assert, that he was chiefly illustrious for having given instructions to Demosthenes: this is not only contradictory, but the fact itself is so far from being true, that, if his pupil had

never been born, his reputation would probably have been greater, and he would have been reckoned the first orator of his age, or at least the next to Hyperides; for the judicious Hermogenes, whose rhetorical tracts are fortunately preserved, places him far above Lyfias, and below none but Demosthenes, in that mode of speaking which he calls *popular*, and which alone seems to be calculated for real struggles in active life, where genuine eloquence has the fullest room to expand herself in bright and natural colours. It is surprising too, that Isæus should all along be represented as the imitator of Lyfias by the very author who expressly calls him, in his account of Dinarchus, *the inventor of his own original style*: he could not, indeed, but admire so fine a composer, who was about forty years older than himself, and had long enjoyed a very flourishing reputation: he must have studied the compositions of Lyfias, and possibly began with imitating them; but finding them too soft and delicate for his forensick combats, which required stronger nerves and harsher features, he changed his course, and, taking nature alone for his guide, discovered and pursued a new species of eloquence, which Demosthenes carried to such perfection, that no mortal will ever surpass, nor perhaps equal, him, until the same habits of industry and solidity of

judgement shall be found united in one person with the same fire of imagination and energy of language. One thing we must necessarily take to be true on the credit of Dionysius; that many speeches of Isæus were hardly distinguishable from those of Lyfias; but they might have been his earliest productions, or the subjects of them might have required a softer and more simple strain.

The true comparison between Lyfias and Isæus appears to be this: purity, accuracy, propriety, conciseness, perspicuity (in the perfect mixture or rather union of which Hermogenes makes the popular style consist), were common to both of them in an equal degree, and both possessed that roundness of expression, to which nothing could be added, and from which nothing could be removed without destroying its justness and symmetry; but the orations of Lyfias had all that sweet simplicity, that exquisite grace, that clearness, and, as it were, transparency, which characterized the genuine Attick diction, and which may be more easily conceived than defined, admired than imitated; for it is analogous to gracefulness in motion, to melody in a series of sounds, and to beauty in the most beautiful of all visible objects, the human form: the lineaments of Isæus were more dignified and manly, and his graces rather those

of Mars than of Adonis; for Dionysius observes, that his figures were stronger and more various, his composition more forcible and impetuous, and that he surpassed Lyfias in ardour and vehemence, as much as Lyfias excelled him in simple and natural charms. In respect to the form and order of their speeches, there appears to have been infinite art in both those orators; but the Critick represents the art of Lyfias as more subtile and recondite, that of Isæus as more easily discoverable: according to him there was hardly a speech of my author, which had not the appearance of being premeditated and moulded into a fashion the best adapted to the purpose of winning the minds of the jurymen, and of seducing their reason, if he could not convince it; but this also we must take in great measure upon trust, for scarce any traces of this open and apparent art, with which both Isæus and his pupil were reproached, are visible to us in their compositions; which breathe the spirit of truth and justice, and seem to have been dictated by nothing more than a natural animation. We may argue, however, as long as we please: it is certain, that both Isæus and Démosthenes had the reputation of being extremely subtile advocates, a reputation by no means favourable at the bar, as it always diminishes and frequently destroys the confidence of the jury, who,

through a fear of being deluded, are apt to suspect a snare in every argument of such a speaker: it is no less certain, that, in this respect, the ancients allowed the superiority of Lyfias over all pleaders of causes who ever existed; for no artful arrangement appeared in his speeches, no formal divisions, no technical mode of reasoning; but he opened his case with a plainness that captivated his audience, whilst it enlightened them; so that, if Truth herself had assumed a human voice and form, she could have used no other language. Demosthenes and Isæus, without having any thing forced or unnatural in their productions, took more pains than Lyfias in preparing the minds of the judges; in relating the facts which gave birth to the litigation; in dividing the parts of their address to the court; in marshalling their evidence; in disposing and enforcing their observations; in digressing without deviation; in returning to the subject without abruptness; in amplifying; in aggravating; in extenuating; and, as Dionysius says particularly of Isæus, in attacking their adversaries, laying close siege to the understandings, and storming the passions, of the jury; not omitting any thing that might tend to secure the fruit of all forensick labours, a verdict or judgement for their clients: for this purpose, if the cause was weak, no insinuation, no address,

no contrivance was neglected by Isæus in order to support it; but, when he happened to have justice on his side, his method seems to have been admirable. His manner of opening was various, according to the great variety of causes in which he was employed; sometimes he told his story in a natural order, with conciseness and simplicity, without preparation, without ornament, without any mixture of argumentation; sometimes he divided a long narration into several heads, proving each of them, as he went along; a method, of which he seems to have been fond, and which could not but conduce to the perspicuity of his speeches: in all cases he made frequent use of that oratorical syllogism, which logicians call *epichirema*, where the premises are respectively proved by argument or evidence before the speaker draws his conclusion; while the *enthymema*, in which one proposition is suppressed, appears to have been more agreeable to the manner of Lysias; and Dionysius, indeed, mentions this as a strong mark of discrimination between the two advocates. His other modes of arguing, his anticipations, recapitulations, digressions, inversions, variations, transitions, were all happily and seasonably applied in conformity to the disposition of his judges, and the nature of each particular case; and here I cannot forbear adding the sketch of a speech, now unfor-

tunately lost, against ARISTOGITON and AR-
CHIPPUS, which the illustrious critick, whom
I have so frequently cited, has given us as a spe-
cimen of my author's method.

It was a cause, in which the brother of a per-
son deceased, claiming a right to the succession,
called upon a stranger for a discovery and sur-
render of a personal estate remaining in his
hands: the defendant pleaded to the bill, that
the defunct had bequeathed his personalty to
him; and hence arose two questions; first, an
issue of fact, Whether any such bequest had
been made or not; and, secondly, an issue of
law, Who was entitled to the possession of the
goods in dispute pending a suit concerning the
existence or validity of the will. Isæus, there-
fore, began with explaining the general doc-
trine on that subject, and demonstrating in par-
ticular, that *a devisee cannot legally possess the pro-
perty devised, until his right be judicially esta-
blished*; a point of Athenian law, which the reader
will find illustrated in one or two of the follow-
ing speeches: thence he passed to an investiga-
tion of the fact, and contended, that no will at
all had been made by his brother: and this he
proved, not by a simple and continued relation
of events, but, his narration being necessarily
long, he distributed it into sections, calling wit-
nesses, as he proceeded, to each head, producing

his written evidence, as occasion required, and corroborating the whole with a number of arguments drawn from all the circumstances of the cause, which he supported.

Various other examples are cited by Dionysius from the works of both orators in illustration of his criticism; and they are all so apposite, that I should be glad to entertain the English reader with them, if it were not almost impossible to convey in our language an adequate notion of the nice distinction between the different originals: it is very possible, I hope, to give in a translation some general idea of an author's peculiar manner, and the cast of his composition; but it would be no easy task to find words and sentences exactly correspondent with the Greek, and to pronounce that, if Lysias and Isæus had been Englishmen, the first would have selected such a word or such a phrase on account of its simplicity, which the other would have rejected in favour of one more energetick and sonorous. The diversity between them, in regard to the disposition of their arguments, might, indeed, be made plainly discernable in any other tongue; but, after full consideration, I resolved to subjoin the fragments of Isæus, without translating any of Lysias, especially as most of his orations may now be read in English, with no less pleasure than advantage, by

any one who shall think proper to compare him with my author. Had more of their productions been preserved, we should have seen more clearly the propriety of the comparison with which the critick of Halicarnassus illustrates his observations; for he declares his opinion, that the speeches of Lyfias resemble ancient pieces of painting in the simplicity of their colours and the graceful correctness of their outlines, while those of Isæus are like the more modern pictures, which are less accurately drawn, but finished with bolder strokes of the pencil, decorated with a greater variety of tints, and enlivened with a stronger opposition of light and shade.

On the whole, the orator Pytheas might have reproached Demosthenes with some reason for having transferred into his practice and manner of speaking the artifices and subtilty of his master; but Dionysius himself may go too far, in saying that the consummate art of Isæus and his pupil made them liable to suspicion, even when truth and equity were on their side, while the plainness of Isocrates and Lyfias gave even a bad cause the colour of justice and reason; as if a glowing and rapid style, or a just arrangement of topicks, could have been suspected of imposture more than the sly insinuating air of candour and openness, which the most artful men often assume.

I cannot leave this subject, without combating in few words an opinion of Cicero, intimated in all his rhetorical pieces, and expressed very roundly in that little fragment, which seems to have been part of a preface to his translation of Demosthenes and Æschines for and against Ctesiphon, but the authenticity of which was doubted by Manutius. It begins with a positive assertion, that “there are no distinct species of oratory, as there are of poetry; that, although a tragick, and epick, and a lyrick, poet may be all equally perfect in their several ways, yet that no man can justly be called a speaker, unless he unite in the highest degree the powers of instructing, delighting, and moving, every audience on every subject.” A character so various, and a genius so comprehensive, must necessarily be the object, if ever it should exist, of general admiration; but why it is not sufficient to call such a man the greatest, without insisting that he is the only, orator, or why an advocate, who never applied his talents to the senatorial species of eloquence, may not attain perfection in the forensick, and so conversely, I am at a loss to comprehend. *Menander*, you say, *would not have desired to be like Homer*; certainly not in his comedies; *but every speaker wishes to resemble Demosthenes*; as certainly not, when he is addressing the jury on

the obstruction of ancient lights or the diversion of a watercourse. The kinds of speaking are different; and, though one of them be more exalted than another, yet orators, as well as poets, may in those different kinds severally reach the summit; and this analogy may be extended to all the fine arts: Myro was not a less perfect sculptor in marble, because he was unable probably to finish gems with the delicacy of Trypho; nor, to speak of modern artists, will Rafaelle ever be degraded from his high rank among painters, because he might not have been able to draw Cupids and Nymphs with the minute elegance of Albani; in the same manner as Demosthenes will always be allowed to have hurled the thunder of Grecian eloquence, although he could not perhaps (whatever Tully may suggest to the contrary) have spoken with the simple graces of Lyfias. Philosophers may refine, and logicians may distinguish, as learnedly and subtilly as they please; it will, after all, be true, that the eloquence of a senator is of a species wholly different from the eloquence of an advocate; that the two kinds ought never to be confounded; and that a complete speaker before a jury or a single judge may strain his throat without effect in a popular assembly. If Cicero, indeed, meant no more than that the title of orator should be given only to one, who,

like himself, excels all men in every way, the argument is reduced to a mere dispute about words, which every writer may apply as he thinks proper, provided he apprize his reader of the new sense in which he means to use them; but, surely, he might have asserted, with equal propriety, that he alone, who surpasses the rest of mankind in every sort of poetry, deserves the appellation of a poet; for nothing can be more exact than the analogy between the two arts, and their near alliance is often acknowledged by the great man himself, with whose opinions I am taking so much liberty: had he said that by the word *orator* he meant a speaker, who had cultivated every branch of his art, the Romans might have thought this an innovation in their language, but they would, perhaps, have adopted the definition on his authority. We are not however contending about the proper application of terms, or the abstract idea of universal genius: the single question is, Whether there are not distinct species of oratory as there are of poetry, and whether a man may not be perfect in any one or more of them, without having directed his talents to the cultivation of the rest; for the decision of which point, I appeal to such of my readers as have heard ten speeches at our English bar, and as many in either house of parliament. They will forgive me for having

applied, and for still applying, the word orator to ISÆUS, although his eloquence was wholly forensick; and I confer this title on him with more confidence, because there is reason to believe, that he sometimes delivered his own speeches, without confining himself entirely to the difficult, but less noble, task of composing for others; for I must confess, that I can form no idea of an orator without elocution and action, nor can the praise of eloquence be justly, or even without a solecism, be bestowed on mere invention and composition, which constitute indeed the body of oratory, but speech and gesture alone can give it a soul. Whether the remaining works of my author will justify the criticism of Dionysius and Hermogenes, or whether my interpretation of them may not have weakened their original force, must be left to the impartial judgement of the reader; but this advantage will naturally result from my present publication: if the following speeches should be thought manly, nervous, acute, pertinent, and better in most respects than the generality of addresses to an English jury on similar subjects, we shall have a kind of model, by which the student may form himself, allowing for the difference of Athenian laws and manners; and, if they should appear inferior in all those qualities to the speeches usually delivered by our leading advo-

ates, we shall have reason to congratulate our age and country, and to triumph in the superiority of our talents; for our leaders often make the ablest and most spirited replies without a possibility of premeditation; and wonderful, indeed, must be the parts and eloquence of those, whose unprepared effusions equal or surpass the studied compositions of the ancient orators.

In whatever estimation ISÆUS may be holden by his translator's contemporaries, it is certain that he stood very high in the opinion of his own: but the fate of his works has not corresponded with the fame, which they procured him, while he lived: since, for the reasons before assigned, they were so much neglected in the darker ages, that no part of his fifty speeches, which were extant in the time of Photius, is known to exist at present, except what this volume contains, with about a hundred detached words and phrases explained by Harpocration and one or two other grammarians: even these ten speeches would in all probability have perished with the rest, if it had not pleased some man of letters to copy them; and it is much to be wished that he had added at least two more, one on the estate of Archipolis, and another on that of Menecles; for we should then have had a complete collection of the orations called *καλῆσι-*

οι, or relating to the subject of legal and testamentary succession. This copy, however, was repositied in the library belonging to a monastery in Mount Athos, whence it was brought to Florence at the beginning of the sixteenth century by Lascaris, who had been sent to Greece by Lorenzo di Medici to purchase manuscripts; and it is preserved at this moment in the Medicean collection. Five years after the book was in Italy, it was printed at Venice, with some other orations, by the indefatigable ALDUS MANUTIUS, who gives the preceding account of it in his preface; and it may be presumed, that his edition, upon which the curious set a high value, is a very exact impressiion of the manuscript with all its inaccuracies. Towards the close of the same century, the celebrated HENRI ETIENNE, whom we have naturalized and call Henry Stephens, reprinted the Aldine edition of the Greek orators with some judicious notes in the margin; but he seems to have taken more pains with *Æschines* and *Lyfias* than with the others, and *Isæus* appeared under his inspection with scarce any greater advantage than that of a very handsome dress: this editor, in his epistle dedicatory, promised to collect all the Attick laws with a comparifon between them and the institutions of modern nations; a work, which would have thrown an advantageous light on

my author, but which unhappily he never completed. Many eminent scholars, who afterwards possessed this elegant edition, among whom were Scaliger and Saumaïse, scribbled a few hasty conjectures in the margin of *Isæus*; but the world at large knew little of his ten speeches for above forty years, until one ALPHONSUS MINIATUS, as he calls himself, undertook, in the seventy-third year of his age, to translate them into Latin: his attempt was highly laudable; but it is clear, that he understood neither the language from which, nor that into which, he translated; for every page of his version abounds with blunders so ridiculous, that, if any man can stoop to divert himself at the expence of another, he cannot find better sport than by reading Miniatus; and Schott of Antwerp, who professed a friendship for him, but must have known his ignorance, did wrong in suffering the old man to expose himself by such a publication. The accurate Perizonius, whose dissertations contain many excellent remarks on my author, complained some time after, that *the very useful speeches of Isæus, which his illiterate interpreter, Miniatus, had most unskilfully rendered, lay scandalously neglected*; and Fabricius expressed his wish, that a very good scholar, whom he names, would present the world with a new translation of them: but even these publick remonstrances

could not attract the attention of learned men to a work, which they thought interesting to lawyers only; and Taylor, who published his *Elements of Civil Law* little more than twenty years ago, speaks of my author as a writer then hardly known: “When I quoted *Isæus*, says “he, I would suggest to my readers, that I mentioned an author upon many accounts very “valuable, but upon none so much as of the “great light, that he is capable of throwing “upon the question before us, *de jure hæreditario*; a subject, in which the orations, that are “left of him, most remarkably abound.” It is probable, that so strong a recommendation from so judicious a writer produced some effect among the scholars of his time; but *Isæus* was still an obscure name, till REISKE of Leipzig, about five years ago, published the originals of the following speeches, together with the treatise of Dionysius, in his elaborate edition of the Greek orators. As I have considerable obligations to this learned and laborious man, whom I mention here merely as the editor of *Isæus*, without entering upon the other parts of his work, I think it better to make this general acknowledgement of them, than to molest the reader with a superfluity of notes, especially as my opinion of his particular corrections may be always ascertained by my translation of the text;

and it must be owned, that although many of his annotations are hasty and even puerile, yet most of them are candid, plausible, ingenious; and some of his conjectural emendations are wonderfully happy: his *interpretation*, indeed, is a prolix paraphrase in very harsh Latin; but, as it shows his apprehension of the author's meaning, and, as that apprehension seems to be generally right, let us be satisfied with the utility of a performance, in which elegance was not to be expected. It is with pleasure that I take this opportunity of giving a due share of praise to so well-intentioned and industrious a man, who, although he was not without the pride and petulance which too often accompany erudition, sufficiently atoned for those faults by the integrity of his heart and the intenseness of his application to the study of ancient literature, which his labours have considerably improved and promoted. To his valuable work we certainly owe the late excellent version of Demosthenes and Æschines by the Abbé AUGER, who promises also a translation of my author; and, as my English *Isæus* has the fortune to see the light before the French, I shall be happy if it can afford any help to so respectable a scholar, who, disdainng the prejudices of an academician, and daring to express his own just sentiments, has the courage to recommend the learning and

language of Athens in the heart of Paris; nor shall I blush to confess any errors that I may have committed, and, with the aid of his interpretation, to correct my own.

As to my work, I shall say very little concerning it, but fairly submit the whole to the judgment of the publick; for I never could approve the custom of authors, who, in their prefatory discourses, lay down rules of perfect writing, to which they insinuate that their own productions are strictly conformable. I will not, therefore, say with *Cicero*, if indeed he wrote the fragment beforementioned, that *I have translated Isæus not as an interpreter but as an orator*; nor with *Middleton*, who was fond of imitating *Cicero*, that *I have made it my first care, always to preserve the sentiment, and my next, to adhere to the words as far as I was able to express them in an easy and natural style*. I am fully persuaded, that there is but one golden rule for good translation; which is, to read the original so frequently, and study it so carefully, as to imprint on the mind a complete idea of the author's peculiar air and distinguishing features; and then to assume, as it were, his person, voice, countenance, gesture; and to represent the man himself speaking in our language instead of his own: but, whether I have acted the part of *ISÆUS* with exactness, whether I have justly

expressed the peculiarity of his character, whether my style conveys an adequate notion of his nerves and spirit, his vigour and sharpness, I really cannot tell; nor, if I could, would it become me to tell my reader. One request only I must beg leave to make: that, if any person should conceive it an easy matter to translate into English the ancient orators of Greece, and should persist in that opinion while he reads my translation, he will instantly lay aside my book, take up the original, and render the next speech himself: if he should find the task more difficult than he had imagined, he will then give me the only praise, which I desire, that of having taken no small pains to inform and entertain my countrymen; to whom, if opportunity alone had not been wanting, I would long ago have made many greater sacrifices—But of myself enough has been said; and, I hope, without impropriety.

I now resume the subject, from which I have so long digressed, and return to the Attick laws of hereditary and testamentary transmissions: the text of which, together with a few other ordinances nearly related to them, I shall prefix to the speeches, reserving a fuller explanation of them for the commentary; it being my sole object, in this introductory dissertation, to prepare my reader for compositions above two thousand

years old, and to explain such allusions as may occur in them, so that he may understand them without the perpetual interruption of notes: with this intent I shall now subjoin a short sketch of an Athenian suit for the recovery of property in the court of HELIÆA, the only one of the ten, which my present subject leads me to consider. A more minute account of a lawsuit at Athens, from the original process to final judgement, would have been superfluous in this place, and even inconsistent with the scope of my work; but, should the curiosity of any learned reader be raised by this summary, he will receive ample information from various tracts in the vast repository of *Gronovius*, among which I principally recommend the elegant treatise of CAROLUS SIGONIUS, *On the Athenian Republic*: that most judicious antiquary has, indeed, so completely exhausted the subject, that POTTER has done little more than translate his work with some additional authorities and a multitude of quotations, which are so far from improving his book, that they render it intolerably dry and tedious. M. Auger professes to have followed Potter and Petit, and has extracted from their rude materials a very perspicuous and agreeable dissertation on the jurisdiction and laws of Athens. I have turned them all over with as much attention as it seemed

worth while to give them ; but my remarks are chiefly drawn from the pure source of the Greek orators themselves, and from their best interpreter, *Harpocraton*. I cannot help grieving, that the *Commentaries on Isæus* by DIDYMUS have not survived the days of Gothick barbarity ; for, although they were probably nothing more than glosses or grammatical notes, yet they would have been of infinite use in illustrating many dark passages, and fixing the purity of the text. The works too of HERO the Athenian, who wrote a treatise *On lawsuits at Athens*, and another *On the forensick contests of the old speakers*, would have given me no less entertainment and instruction than assistance in composing this part of my preface ; and the same may be said of two lost books by TELEPHUS, the first, *On the laws and customs of the Athenians*, and the second, *On their courts of judicature* ; but, instead of wasting time in fruitless regret, I proceed to discourse concisely on the same subject by the help of such imperfect light as remains.

It is almost needless to premise, what every person who has the slightest acquaintance with the constitution of Athens already knows, that all causes concerning inheritances, devises, legacies, portions, adoptions, marriages, divorces, alimony, widows, heiresses, orphans, guardians,

belonged to the jurisdiction of the chief ARCHON, who gave his *name* to the year of his magistracy, and was thence often called *Eponymus*; a jurisdiction, which may in part be traced through the Decemviral laws to that of the Roman PRÆTOR, and from him, through the imperial and pontifical constitutions, to that of our CHANCELLOR. Either this great magistrate, whose tribunal was in the Odeum, or one of the six inferior Archons, called *Thesmothetæ*, generally fat, crowned with myrtle, for the purpose of receiving complaints from persons injured, of directing process, examining the parties, allowing or disallowing the action, and conducting the suit through its various stages; for, when a citizen thought himself wronged, and resolved to seek redress in a court of justice, his first step was to prefer his *plaint* and *denounce* the name of his adversary to the sitting magistrate, who *examined* the complainant, and, if he thought the action maintainable, permitted him to *summon* the defendant to appear at a certain day: it was allowable, where an expeditious remedy was required, to *attach* the person complained against, and carry him directly before the court, of which the reader will recollect many instances in the ancient comedies, where the scene is usually laid at Athens; but, in most cases of civil injuries, the first process was by

citation or *summons*, for which purpose a number of apparitors or bailiffs, called *summoners*, were constantly at hand; nor can we suppose, that in a small state governed almost wholly by laws, which inflicted a severe punishment on contumacy, this monition of the Archon was often disobeyed: contumacious persons were declared *infamous*, a sentence no less dreadful to an Athenian, than *outlawry* to an Englishman.

When both parties were confronted before the magistrate, he proceeded to a strict examination of them, which was called the *interrogation*, and the parties litigant were at liberty to interrogate one another, as we learn from the speech on the estate of *Philoctemon*; whence also we may collect, that their *answers* were set down in writing, and might be given in evidence against them at the trial, and that, if the Archon found it necessary, he might adjourn the examination. This was not unlike the French *recollement*, of which M. de Beaumarchais has given us a lively and curious description in one of his interesting memorials; and the student will find it an instructive and agreeable exercise to compare these judicial proceedings at Athens, not only with those of the civilians and canonists, of which he will see an exact sketch in Sir Jeffrey Gilbert's *Forum Romanum*, but also with those in our own courts of law and equity, and

with the modes of bringing causes to a hearing in Scotland and France : to remind him at every turn of the analogy between these different forms of administering remedial justice, would be both idly ostentatious and inconsistent with my principal design.]

It was the Archon who gave the complainant the power of impleading his antagonist, prescribed the proper form of the action, of which the Athenians had a great variety, and, to use their term, *admitted* the cause into court ; after which preliminaries the party complaining put in, as I conceive, his *declaration*, or *bill*, in which he set forth pertinently and succinctly the nature of the injury which he had sustained ; and then, I imagine, the parties proceeded to their mutual *altercations*, which the Archon moderated and directed, and which, like our ancient *pleadings*, were delivered orally before his tribunal. If the plaintiff persevered in demanding redress, and the defendant insisted generally, that *he had committed no injury*, or *that he had a right to the property in question*, so that the merits of the cause might be fairly tried in a *direct* course, issue was then joined, as by the *Sponsio* of the Romans, and each party *deposited* a stated sum as a pledge of prosecuting his claim : nor was this all ; for the parties were obliged to give in *cross-depositions*, in which they respectively swore,

, that they relied on the justice of their several cases, and would produce evidence of the truth. The Archon then enquired into the nature of that evidence, asked the parties, if they were prepared with their witnesses, and what was the number of them; for, if either of them was unprepared and could offer upon oath a just excuse for his want of readiness, the trial might be postponed. This was also the time for proposing terms reciprocally in regard to the litigation, as by written *challenges* to produce their slaves, whose testimony was always extorted by pain or by the apprehension of it, and who could not be exposed to torture without the consent of their masters, which was rarely given; but the party refusing to consent gave an advantage to his adversary, who, instead of ascribing his refusal to humanity, constantly imputed it to a dread of disclosing the whole transaction; of which common topick we see a remarkable instance in the *Trapezitick* speech of Isocrates, whose very words are found in that of Isæus on the estate of Ciron, and in the first of Demosthenes against Aphobus: this identical passage in the three orators is adduced by Eusebius among other instances of the gross plagiarism with which he charges the Greeks; but it is a passage which, to the honour of our nation, can never be copied by a British advocate.

It was competent, however, to the defendant, to put in a *dilatory plea*, as for instance, to the *jurisdiction* of the magistrate ; or to *demur*, as we call it, to the declaration, by insisting that the action was not maintainable, or, in the language of the Athenians, not εἰσαγώγιμη or *admissible* ; or he might plead *in bar* any fact that precluded the plaintiff from his suit, as a compromise and release, or the expiration of the limited time within which the complaint should have been preferred : this was in general *five* years ; but the law of limitations doth not seem to have been very rigorously observed, as excuses for the non-claim were often made, and sometimes, probably, admitted. From this law there arises no small difficulty in the speech on the estate of PYRRHUS, whose adopted son Endius had been in possession above *twenty* years, yet, on his death, an attempt was made to invalidate the adoption by protesting that Pyrrhus had a legitimate daughter : now one would have imagined, that, had she been really legitimate, she would have been perpetually barred by not having *entered* on the estate, or opposed the claim of Endius, within the due time from the death of her father ; but the five years only ran from the day when a new title accrued, and, she having passed the time of entering as *daughter* of Pyrrhus, her husband might have made a claim

for her as *sister* and heiress of Endius lately deceased. However that might be, this cause affords a good specimen of Athenian pleading; for, in the original suit, Xenocles appears to have been complainant in right of his wife Phila, and to have demanded in his bill the three talents, of which her father died possessed: to this the defendant, who was the mother of Endius, *pleaded*, that she was the sister of Pyrrhus, and, on the death of his adopted son without heirs, became entitled to his estate: Xenocles *replied*, in the form called διαμαρτυρία or a *protestation*, that she had no title, because *Pyrrhus had left a legitimate daughter*: this the defendant *traversed* or denied; and, as the issue was found in her favour, the complainant, who had *protested* upon oath, must necessarily have been perjured. I chose to give this Attick form the name of *protestation*, although *obtestation* be more literal, and although the former word be restrained in our law to a parenthetical allegation, which is not *traversable*; but I cannot too often request the reader of *Isæus* to place himself at Athens, and to drop for a time all thoughts of our own forensick dialect. This *protestation* then, which answered sometimes to a *demurrer*, and sometimes to a special plea *in bar*, differed from the παραγραφή or *exception*; for the first might be entered by either of the contend-

ing parties, or even by a third person intervening; as, in the litigation concerning the estate of Dicæogenes, when Menexenus and his cousins were going to join issue with their adversary, *Leochares* put in a protestation, *that the heirs at law were precluded from claiming the inheritance*: but the *exception*, which in general was a dilatory plea, could only be made by the defendant. These oblique modes of pleading were, however, considered as unfair, and were therefore discountenanced, as tending to divert the stream of justice, and to evade a candid investigation of the whole truth: thus *Thrasyllus*, in the sixth speech, makes a merit of having pleaded in a *direct* form, when it was in his power to have *protested* specially, that he was the adopted son of Apollodorus; and, in the fifth, the same topick is urged in favour of Chærestratus, whose advocate insists, that his opponent, instead of *protesting*, that Philoctemon had left legitimate sons, should have denied at once the validity or existence of his will. It seems that, in all cases of disputed estates, every devisee, and every heir, except a lineal descendant, was compelled to make a claim by exhibiting a bill to the Archon: if his title was controverted, the adverse claimant presented a *cross-bill*, called ἀντιγραφὴ, and it appears from the last mentioned cause, that this course might be pur-

sued by a person who had protested, even after the issue on his protestation had been found against him; whence it follows, that a multiplicity of trials was prevented by the *εὐθυσία* or general plea. We may collect also from a passage in the fourth of the following speeches, as well as from Harpocration, that when a stranger interposed by protesting, that *the estate was not ενδίκον or open to controversy*, it was usual to discontinue the original action, and to try the issue joined on the protestation, the event of which trial must have directed the judgement in the first cause: what follows that passage is extremely singular; for, when Leochares was more than half-convicted of perjury, the punishment of which was a perpetual deprivation of all civil rights, the plaintiff not only was permitted to decline taking the verdict, but even consented to accept the promise of Leochares himself, that Dicæogenes should surrender the property in dispute.

Whenever, in the course of these pleadings, the parties came to a *fact* or a point of *law* (for both were determined by the same judges) asserted on one side and denied on the other, the Archon proceeded, as if the defendant had pleaded generally: and all the writings in the cause, the bills, claims, cross-depositions, challenges, protestations, and exceptions, together with such in-

struments as had been exhibited, and, I believe, with the depositions of the witnesses, were enclosed in a vessel called *κλῆρο*, which could not be opened till it was carried into court.

Thus was a cause at Athens prepared for trial, and, we must acknowledge, in a simple and expeditious manner; nor was the popular form of pleading the general issue, and proving the special matter in court, liable to the objection of exposing the parties to the danger of being surprized with an unforeseen case or unexpected evidence; since all the circumstances were previously sifted, and the depositions accurately settled, in the presence of the Archon, so that each party was fully aware of his adversary's strength, and able to instruct his advocate without darkness or perplexity: yet if we consider the multitude of law-suits, with which, as *Isæus* himself informs us, Athens abounded, it must appear strange: how six or seven magistrates, even with their assessors, could have time to conduct the altercation of so many litigants, and to perform the other important duties of their office. At Westminster a similar plan would be found impracticable; nor shall I easily be induced to wish for a change of our present forms, how intricate soever they may seem to those who are ignorant of their utility. Our science of special pleading is an excellent Logick; it is

admirably calculated for the purposes of analysing a cause, of extracting, like the roots of an equation, the true points in dispute, and referring them with all imaginable simplicity to the court or the jury: it is reducible to the strictest rules of pure dialectick, and, if it were scientifically taught in our publick seminaries of learning, would fix the attention, give a habit of reasoning closely, quicken the apprehension, and invigorate the understanding, as effectually as the famed Peripatetick system, which, how ingenious and subtile soever, is not *so honourable, so laudable, or so profitable*, as the science, in which *Littleton* exhorts his sons to employ *their courage and care*. It may unquestionably be perverted to very bad purposes; but so may the noblest arts, and even eloquence itself, which many virtuous men have for that reason decried: there is no fear, however, that either the *contracted fist*, as Zeno used to call it, or the *expanded palm*, can do any real mischief, while their blows are directed and restrained by the superintending power of a court.—But let us return to Athens.

The next act of the Archon was to cast lots for the *judges*, on whom I chuse in general to confer that title, because they determined not the fact only; but the law and equity, of every case: although I have always been of opinion

with the learned antiquary Dr. PETTINGAL, that they might with propriety be called *jurymen*; and that the Athenian juries differed from ours in very few particulars. It is well known, that the *Δικασται* were a standing body of citizens, all at least thirty years old and of unblemished character, but without any stated qualification in point of fortune: before they were admitted into the order of judges, they swore solemnly, among other things, “that they would never accept a bribe directly or indirectly for pronouncing their sentence, nor suffer any of their fellows to be bribed, with their knowledge, by any artifice or contrivance whatever; that they would impartially attend to both plaintiff and defendant, and give a just verdict on the very point in issue;” which oath, as we may collect from *Demosthenes*, they repeated before every trial, and the advocates seldom failed to remind them of it. The number of their names drawn by lot, in causes to be tried in the *Helixia*, was usually five hundred, as we learn from the fourth speech of *Isæus*; but, on very important occasions, a thousand, fifteen hundred, and sometimes two thousand, sat to decide the same cause; so that they formed in reality a committee from the whole legislative body, and hence they are frequently pressed by the orators to be guided by the laws which

they had themselves enacted: it is on account of their ample powers and their mixed character, that I call their sentence indifferently a *judgement*, a *verdict*, or a *decree*; although at our bar we appropriate each of those words to a distinct meaning. The sentence was determined by the plurality of suffrages; but the nearer the court approached to unanimity, the more brilliant was the victory; and as he, who had not a fifth part of the votes, was fined a thousand drachmas, I conceive, that the parties were allowed to challenge such of the jurors as they could affect with a reasonable suspicion of a bias to either side. When the judges, on the day appointed, took their seats in the *Heliaea*, a place in the open air, but surrounded with a rope and attended by officers who kept off the croud, the Archon proposed or *introduced* the cause; and, if the defendant made default, judgement was given against him; but it was not final till two months had passed, within which time he might apply to the magistrate, and, by assigning on oath a satisfactory reason for his absence, might set it aside, and have another day fixed for the trial. When the parties appeared, they usually brought with them as many powerful friends as they could assemble, with a view, no doubt, of influencing the jury; a shameful custom! but which cannot easily be

prevented in any country, and which seems to have been common at Athens, as we find in some of the old comedies, and in the beginning of the speech on the estate of Cleonymus: they were accompanied also by their advocates and witnesses, of whom it will be necessary to speak with as much conciseness as the subject will admit.

The office of *συμβολογος* was distinct from that of *ἐγγυητής*; as the first was the *actor causarum*, and the second the *jurisconsultus*, of the Romans; both which characters are generally united in our *counsel*: I call the first an *advocate*; although I have no certain knowledge that the *Athenian* title was given to men of a particular profession; but am inclined to think, that any man whatever, whom friendship or ability recommended to either party, might, with the permission of the court, plead his cause before the judges; nor do I believe, that this business was in general considered as reputable; for *Nicodemus*, who seems to have been a very profligate fellow, is reproached by *Isæus* in the second speech, for acting dishonestly, in hopes of the petty fees, which he gained by pleading causes; and, in the eighth, *Xenænetus* and his associates, whom my author represents as a detestable crew, are said to have had such powers in speaking, that they were often employed as

advocates. The ῥήτορες were of a higher class; many of them, illustrious statesmen; and all, men of distinguished abilities, who were frequently engaged in private causes, either at the request of particular friends, or, like the Roman senators, who were forbidden to take money by the *Cincian* law, with a view of acquiring fame and popularity: but Antipho of Rhamnus is said to have been the first who took fees for his forensick labours. When the orators addressed the court in person, they were assisted, as *Tully* says, in matters of law by solicitors or agents, who were called *πραγματικοί*, and whose profession was reckoned illiberal; but, most commonly, the speeches were composed by the great masters of rhetorick, and delivered either by memory or from writing, by the clients themselves, or some of their intimate friends: for the Athenians were naturally quick; their general assembly was the best school of eloquence in the world; and, as they had but one language to learn, which was the finest ever spoken by mortals, the lowest among them could not only express themselves with propriety, but were even the nicest judges of the pure Attick diction. *Plutarch* tells us, in his treatise on *Garrulity*, that *Lyfias* wrote a speech for a client, who brought it back with great marks of uneasiness, assuring the orator, that, “when he

“first read it, he thought it wonderfully fine ;
“but that, on the second and third reading, it
“appeared quite languid and inapplicable.”

“What! said Lysias smiling, do you forget
“that you are to speak it but once to the jury?”

This mode would, for many obvious reasons, be hardly practicable among us ; yet, in some criminal cases, we have instances of artful and elaborate defences, at least equal to those of *Anispho*, composed or delivered by the prisoners themselves : and, surely, no compositions require so much delicacy and judgement, since innocent men on such occasions are seldom eloquent. Sometimes both methods were united at the Athenian bar ; and the party, having told his story in a set speech, was succeeded by his advocate, who pronounced the peroration in a loftier strain : of this we have some examples in Demosthenes, who is called up by name to finish the speech for Darius against Dionysodorus ; and that of Isæus on the estate of Nicotratus was, I believe, of the same kind ; for it contains very solid observations on laws and the nature of evidence, which would have come with a bad grace from the mouth of an ordinary client ; and it concludes with a recapitulation of proofs, none of which appear in the preceding part ; so that from these circumstances we may collect, more certainly than from the opening

of the speech, that it was delivered by the orator in his own person ; nor is it in any respect unworthy of his reputation. It is hardly necessary to observe, what the reader will naturally imagine, that women and infants both sued and were impleaded in the names of their husbands, guardians, or next friends ; as, in the disputes about the estate of Hagnias, the *prochein amy* of young Stratocles exhibited the information, and delivered the charge, against Theopompus, whose son was afterwards attacked by the guardian of the third Eubulides. The time, which these judicial speeches were not suffered to exceed, was previously fixed by the Archon according to the nature of the cause and the number of pertinent observations which it required ; and this time was regulated by the dropping of water through a glass, called *clepsydra*, which was carefully stopped, when any verbal or written evidence was produced, or any law, will, or other instrument, was read to the court : this was a restriction in most cases highly expedient for the dispatch of business ; although Tacitus considered the *Pompeian* law, by which the length of a criminal's defence was limited to three hours, as a check to the free course of eloquence ; and, as the power of allotting the due quantity of water seems to have been discretionary in the magistrate, the success of a cause

might, perhaps, depend too much upon his vigilance, attention, and sagacity: on the whole, we proceed better, I think, without any such restraint.

It does not appear, that two or more advocates were ever heard at Athens on the same side, as they were at Rome, and commonly are with us on legal questions. Cicero, in his pleasing book on Famous Orators, objects warmly to this practice; but his objections, in my apprehension, are not weighty: when he was a boy, there were but six advocates in the fullest business; nor have we many more, who are sure to be retained in every cause of great importance; to determine who are the Crassus and Antonius, who the Philippus and Cæsar, who the Cotta and Sulpicius, of our English bar, would be a task no less invidious than unnecessary; but if the most eminent were always to speak without any subalterns, a young barrister might be condemned at Westminster to a silence of twenty years.

If the reader has but opened the following work, he must have observed, that the Athenian advocates called their witnesses and read their depositions, as they went along, in proof of their several points, instead of crowding all their evidence together at the conclusion of their speeches; and, although eloquence flows more

agreeably and ostentatiously in a continued stream, yet their method seems better calculated than ours for the purpose of enlightening and convincing the jury; since, as *Dionysius* remarks, *a number of proofs collected in one place, and belonging to a variety of heads, is inconsistent with perspicuity.* The witnesses were examined, and, I doubt not, cross-examined, in the preparatory stages of the cause; but they were not sworn till the day of the trial, when they took the oath together at the altar with all possible solemnity, and were afterwards called before the tribunal to confirm their depositions, or, if necessary, to correct and explain them; so that the practice of the Athenians happily united the advantages of both oral and written testimony. This was the form of a deposition in one of their most celebrated causes: “SOSIA deposes, “ that Callistratus, his wife’s father, was first “ cousin to Polemo, the father of Hagnias, and “ to Charidemus, the father of Theopompus; “ that his mother was second cousin to Polemo; “ and that she often told him, that Phylomache, “ the mother of Eubulides, was sister of the “ whole blood to Polemo, the father of Hagnias, and that the said Polemo never had a “ brother.” They admitted, we see, hearsay evidence even of particular facts, as it appears

also from the speech on the estate of *Ciron*; and, when it was expedient to perpetuate the testimony of persons going abroad or likely to be detained by sickness, it was usual, in the presence of reputable witnesses, to take their depositions, which were called *ἐμαρτυρίαι*, and might afterwards be read when the cause was ripe for a hearing. If a witness was summoned, he was obliged to attend the trial under pain of perpetual infamy; and, if he was really ignorant of the facts in question, the court permitted him to *abjure*, or swear that he knew nothing of the matter; but, if he would neither give evidence nor abjure, the law condemned him to pay a fine of above five-and-thirty pounds, a sum by no means inconsiderable in a country where money was extremely scarce: thus Hierocles protests his ignorance of a material fact in the cause concerning the estate of *Astyphilus*, where the sense directs us to read *Ἐξωμωσία*, or *abjuration*, instead of *Μαρτυρία*, or *evidence*, which he refused to give. I am persuaded, that objections were frequently made to the competence of witnesses; and, when they were received, many arguments were used and singular proofs adduced by the adverse party to affect their credibility: thus the seventh speech of *Isæus* closes with a violent attack upon *Diocles*, whom the

orator accuses of the most atrocious crimes, and even produces evidence that he had been a dishonest guardian and an adulterer.

In the admission of evidence they seem to have indulged an extraordinary latitude; as in the first cause, on the revocation of a will, they heard proof of an opinion declared by the friends and relations of the devisees, that the property of Cleonymus ought to be divided among the contending parties; and many other singularities of this kind will be seen in the rest of the speeches: but we must never forget, that the *δικασταὶ* were judges of fact, law, and equity, with ample powers of deciding according to the justice of every case; so that the parties were permitted in general to prove whatever tended to place them in a favourable light; and this accounts for the popular topicks to the jury, which occur so often in Isæus, Demosthenes, and Lyfias, that their clients had contributed largely to defray the expenses of the state, had furnished gallies, served chargeable offices, given handsome entertainments, and lived parsimoniously in private, that they might act liberally in publick, while their adversaries either concealed their fortunes, or were remiss and penurious in their contributions; topicks, which no advocate in his senses would urge before judges of the bench, but which seem well adapted to

the constitution at the courts at Athens, where the democracy could never have flourished, unless all the citizens had vied with each other in supporting it; and, as in some states certain offenders are excluded from the protection of the law, so in a republick few offences can deserve that exclusion more justly than a want of zealous affection to the commonwealth. After all, we have no reason to regret, that, in private causes at least, an Englishman is sure to obtain justice, although he may not have paid his annual taxes with eagerness, or served the office of sheriff with great alacrity; and we may triumph in our elegant and philosophical theory of evidence, which Aristotle and Plato must have admired, and by the strict rules of which all trials in the world ought to be directed.

A few other particularities will be remarked in the speeches of Isæus; as, an appeal by Menexenus to the knowledge of the jurors themselves, concerning some transactions at a former trial; witnesses, who happened to be present, called upon to give evidence for Ciron's grandson; allusions by the brother of Aftyphilus to what was passing in court; the prosecutor openly interrogated by Theopompus at the beginning of his defence: most of these circumstances are inconsistent with set speeches composed by the orator and pronounced by the party; and

one would almost be tempted to conjecture, that the advocate himself spoke in the person and character of his client, if the story before cited from Plutarch and other authorities were not decisive of the contrary.

When the defendant had closed his speech (for I find no certain traces of any reply by the complainant) the jurymen gave their sentence by casting pellets or beans into the urns allotted to the parties, and, in cases of inheritances, every claimant in a distinct right had a separate urn, but a single one served for all those who claimed under the same title: the magistrate then counted the pellets, and declared the judgment; and here ended his *πρεσβευσία*, or *presidency* of the court; for he had no power to direct or influence the jury; and *Lyfias* asks with some warmth, *What could be more disgraceful and abominable, than if the Archon, in causes concerning heiresses, should dare to solicit the judges, and desire them to find a verdict according to his pleasure?* This regulation deserves to be applauded, and would even be worthy of imitation, if the complex questions and nice points, which an *English* jury are often required to determine, did not make it absolutely necessary for them to receive light and assistance from the learning and experience of a judge.

If the complainant failed of success, he was amerced for his false claim, which amercement was usually a sixth part of the sum demanded: in all cases the unsuccessful party forfeited his deposit, and the fines and forfeits were speedily collected by the *ταμίαι*, or officers of the revenue, who paid them into the treasury, where some of them were appropriated for the payment of the jurymen, and the rest applied to the service of the publick.

To the courts at Athens appeals lay from the decisions of the standing *arbitrators*, of whom there were four hundred and forty in different parts of Attica, forty-four being drawn by lot from each of the ten tribes: two of them commonly gave judgement in every cause; and we find, in the fragment against the burgeses of Erchia, that their tribunal was sometimes placed in the Delphinian temple of Apollo. As very little occurs in the following speeches concerning this court, it is needless to discourse at large on its origin and constitution; but we may observe, that its decrees must always be distinguished from the awards of arbitrators freely chosen by the parties themselves, and generally sworn to do justice, from which there was no appeal.

Before I conclude this prefatory part of my

work, it will be proper to mention succinctly, that the people of Athens, who had the freedom of the city and governed the republick, were divided into ten tribes; that the tribes comprised a number of boroughs, dispersed in various parts of Attica; that each borough was subdivided into wards, and each ward composed of distinct families. Every legitimate child, who was named on the tenth day after his birth, was presented, before his seventh or eighth year, to the citizens of his ward with many ceremonies, to which we find allusions in the following speeches: the time for presenting natural children was the festival, called *Apaturia*, which lasted four days in January; but adopted sons were admitted at the feasts of *Thargelia* in July, as we may collect from the speech on the estate of *Apollodorus*, where the reader will see a description of the forms usual on these occasions. If the members of the ward were satisfied of the child's legitimacy, and none of them removed from the altar the victim called *κρίον*, which was sacrificed in their presence and distributed among the company, the name of the new citizen was inscribed on their *common* register; but he was not a complete burges till the age of twenty years, when he was registered on the *publick* roll of his father's borough.

This will be a sufficient introduction to the works of the author, whom I now send abroad in an English dress: the four orders of Athenian citizens, their military and religious institutions, their funeral rites, their celebrities in honour of Ceres and Proserpine, of Pallas and Prometheus, with their greater and less festivals of Bacchus, are known to all, who have received the slightest tincture of Grecian learning; but ISÆUS will give full satisfaction to those only, whose imagination can for a time transport them to his country, who can live in idea two thousand years ago, and read an Attick orator with the mind, and, as it were, the eyes of an Athenian; in the same manner as an astronomer, to borrow a comparison from the excellent writer on Hebrew poetry, supposes himself to become for a while an inhabitant of every planet, where he observes its peculiar qualities, and its situation with respect to others, measures their distances, compares their motions, and forms a distinct view of the whole universe.

ATTICK LAWS.

I.

WHEN a woman, in order to enjoy the rights of a lawful wife, has been duly betrothed by her father, or her brother by the same father, or her paternal grandfire, her children born in wedlock are legitimate. If none of those relations be living, and she be an heiress, let her nearest kinsman marry her; but, if she have no kinsman entitled to claim her, let him, who shall be appointed her guardian, give her in marriage.

II.

The legitimate sons of heiresses shall enter upon their estates at the age of sixteen years, and shall allow their mothers a suitable maintenance.

III.

If the nearest kinsman of a woman without an estate refuse to marry her, he shall give her in marriage with a portion of five minas, if he belong to the first order of citizens; or of three, if he belong to the second; or of a mina and a half, if he be of the third class. If she have many kinsmen in the same degree, they shall severally contribute to her por-

tion; and if there be many such women, each of their kinsmen shall be obliged to marry or to give in marriage one of them only. If the next of kin will neither marry them nor give them in marriage, the Archon shall compel them to do either one or the other; and, if he neglect this duty, he shall forfeit ten minas to the Temple of Juno. Any citizen may prefer a complaint before the Archon against such as disobey this law.

IV.

Let the Archon take care of orphans and heiresses, of desolate heritages, and of women, who, alledging that they are enceint, remain in the houses of their deceased husbands: let him not suffer them to be insulted or injuriously treated. If any one should injure them, let him impose a fine within the limits of his authority; and, if the offender should seem deserving of a heavier punishment, let the Archon summon him to appear within five days, and, laying the damages at such a sum as he thinks proper, let him bring him to a trial in the court of Helixæa, where, if he be found guilty, let the jury inflict such a corporal pain, or set such a fine, as he shall deserve.

V.

If a husband repudiate his wife, he shall return her portion, or pay interest for it at the rate of nine obolus's a month for every mina. Her next of kin, under whose protection she is, may sue for her portion or her alimony before the Archon in the Odeum.

VI.

All genuine unadopted citizens may devise their estates as they think fit, provided that they have no legitimate children, and be not disabled by lunacy or age, or poison or disease,

nor influenced by women so as to have lost their reason from any of these causes, nor be under any dures or confinement.

VII.

The wills of such as have legitimate sons shall stand good, if those sons die before their age of sixteen years.

VIII.

If a man have legitimate daughters, he may devise his estate as he pleases, on condition that the devisees take them in marriage.

IX.

Infants and women shall not transfer or devise more than the value of a bushel of barley.

X.

Adopted sons shall not devise the property acquired by adoption; but, if they leave legitimate sons, they may return to their natural family. If they do not return, the estates shall go to the heirs of the persons who adopted them.

XI.

The adopted son and the after born sons of the person who adopted him, shall be coheirs of the estate; but no adoption by a man, who has legitimate sons then born, shall be valid.

XII.

If a citizen die intestate and leave daughters, the nearest kinsmen who marry them shall inherit the estate; but, if he die childless, his brothers by the same father shall be his

heirs, and the legitimate sons of those brothers shall succeed to the share of their fathers. If there be no brothers, the sisters on the father's side, and their children, shall inherit. On failure of sisters and nephews, the cousins on the father's side shall be heirs in the same manner; but males and the children of males shall be preferred, although in a remoter degree, provided that they belong to the same branch. If there be no kinsman on the father's side so near as the second cousins, then let those on the mother's side succeed to the estate in the same order. Should there be no maternal kinsmen within the degree above limited, the next paternal kinsmen shall be the heirs.

XIII.

No male or female bastard, born after the Archonship of Euclid, shall succeed either to sacred or civil rights.

XIV.

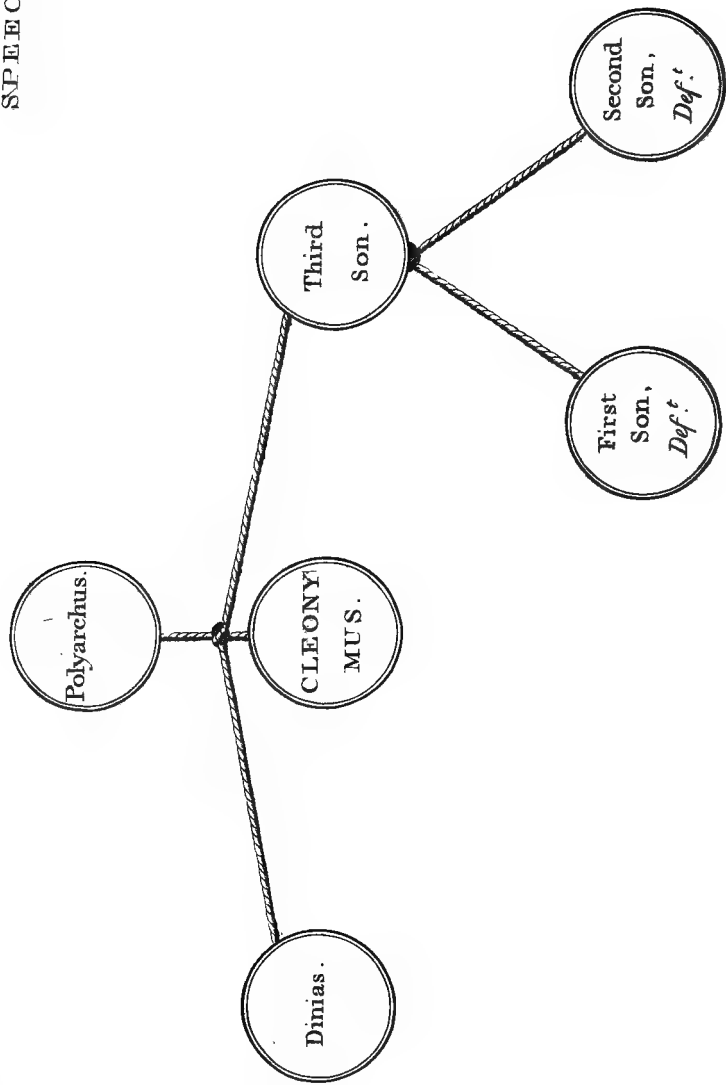
Inheritances and heiresses may be claimed every month in the year except August, and no devisee shall possess an estate except by an adjudication of the court.

XV.

If any man shall controvert the title of another, to whom an inheritance or an heiress has been adjudged, let him cite his adversary before the Archon, as in other causes. The demandant shall deposit a stated sum as a pledge of prosecution, and, if there be no citation, the judgement shall be reversed. If the person, to whom the estate was adjudged, be dead, his heir may be impleaded in the same form, provided that the limited time be not expired. Let the suit proceed before the Archon in the same manner as the claim was at first made by the possessor of the inheritance in dispute.

NOTE.

The Athenians made no difference between the transmission of real and personal property: in these laws, therefore, and in the following speeches, the words *devise*, *heir*, *inheritance*, and the like, are applied both to lands and to goods, without being restrained to the peculiar sense in which we use them.



THE

SPEECHES OF ISÆUS.

SPEECH THE FIRST.

ON THE ESTATE OF CLEONYMUS.

THE ARGUMENT.

POLYARCHUS left three sons, Cleonymus, Dinias, and the father of those, for whom Isæus composed the following speech. The third son dying, his children were committed to the guardianship of Dinias. These young men were heirs to Cleonymus by the laws of Athens, and their grandfather had appointed them successors to their uncle, if he should die childless. Cleonymus had, however, a power to dispose of his property; and, in a fit of anger against his brother Dinias, for some real or imagined wrong, had made a will in favour of two remoter kinsmen, Diocles and Posidippus; which,

according to the custom of the Athenians, he had deposited with one of the magistrates; but, after the death of Dinias, he took his nephews under his care, and determined to cancel the will, by which they were disinherited. With this intent he sent for the magistrate, who kept the testament, but died unexpectedly before an actual revocation of it. His nephews then entered upon his estate, as heirs at law; and the other claimants produced the will; which, as Isæus contends in the person of his clients, was virtually revoked by Cleonymus.

SPEECH THE FIRST.

The Grandsons of Polyarchus against Posidippus and Diocles.

GREAT has been the change, which our fortunes have undergone by the decease of Cleonymus; who, when he was alive, intended to leave us his estate, but has exposed us by his death to the danger of losing it: and with so modest a reserve, judges, were we bred under his care, that not even as hearers had we at any time entered a court of justice, but now we come hither to defend our whole property; for our adversaries dispute our right not only to the possessions of the deceased, but also to our paternal inheritance, of which they boldly assert that he was a creditor. Their own friends, indeed, and relations think it just, that we should have an equal share even of those effects which Cleonymus confessedly left them; but our opponents themselves have advanced to such a height of impudence, that they seek to deprive us even of our patrimony; not ignorant, judges, of what is right and equitable, but conceiving us to be wholly defenceless against their attacks. **

Consider then on what grounds the parties, who come before you, respectively rest their claims: these men rely on a will, which our uncle, who imputed no blame to us, made in resentment against one of our relations, but virtually cancelled before his death, having sent Posidippus to the magistrate, for the purpose of solemnly revoking it; but we, who were his nearest kinsmen, and most intimately connected with him, derive a clear title, both from the laws, which have established our right of succession, and from Cleonymus himself, whose intention was founded on the friendship subsisting between us; not to urge, that his father, and our grandfather, Polyarchus, had appointed us to succeed him, if he should die without children: such and so just being our claim, these associates, who are nearly related to us, and who have no colour of justice on their side, are not ashamed of contesting our title to an estate, about which it would be disgraceful for mere strangers to contend. Nor do we seem, judges, in this cause to have the same dispositions towards each other; for I do not consider it as the greatest of my present misfortunes to be unjustly disturbed with litigation, but to be attacked by those, whom it would be improper even to repel with any degree of violence; nor should I think it a lighter calamity to injure

my relations in my own defence, than to be injured myself by their unprovoked assault: but they, judges, have different sentiments, and appear against us with a formidable array of friends, whom they have summoned, and advocates, whom they have retained; leaving behind them no part of their forces, as if they were going to inflict vengeance on open enemies, and not to wrong those whom they were bound by every natural and social tie to assist. Their shameless audacity and sordid avarice will be more clearly perceived by you, when you have heard the whole case, which I shall begin to relate from that part, whence you will soonest and most easily learn the state of our controversy.

Dinias, our father's brother, was our guardian, he being our elder uncle, and we, orphans; at which time, judges, a violent enmity subsisted between him and Cleonymus: whether of the two had been the cause of the dissension, it is not, perhaps, my business to determine; but so far at least I may pronounce them both deservedly culpable, that, having till then been friends, and no just pretext arising for a breach of their friendship, they so hastily became enemies on account of some idle words. Now Cleonymus himself, when he recovered from that illness, in which he made his will, declared,

that he wrote it in anger; not blaming us, but fearing, lest at his death he should leave us under age, and lest Dinias our guardian should have the management of our estate; for he could not support the pain of thinking, that his property would be possessed during our infancy, and that sacred rites would be performed at his sepulchre, by one, whom of all his relations he most hated, while he lived: with these sentiments (whether laudable or not, I leave undecided), he made a disposition of his fortune; and, when Dinias, immediately after, asked him publicly, whether we or our father had incurred his displeasure, he answered, in the presence of many citizens, that he charged *us* with no fault whatever, but made the will in resentment against *him*, and not from any other motive: how indeed, judges, could he have determined, if he preserved his senses, to injure us, who had given him no cause of complaint?

But his subsequent conduct will afford the strongest proof, that by doing this he had no intention of wronging us; for, when Dinias was dead, and our affairs were in a distressed condition, he was so far from neglecting us, or suffering us to want necessaries, that he bred us in his own house, whither he himself had conducted us, and saved our patrimony from unjust creditors, who sought insidiously to deprive - -

us of it ; nor were our concerns less attentively managed by him than his own : from these acts, therefore, rather than from his written testament, it is proper to collect his intention-towards us ; and not to be biaſſed by what he did through anger, by which all of us are liable to be hurried into faults, but to admit the clear evidence of thoſe facts, which afterwards explained his deſign. Still farther : in his laſt hours he manifested the affection, which he bore us ; for, being confined by the diſorder of which he died, he was deſirous of revoking his will, and with that intent ordered Poſidippus to bring the officer who had the care of it ; which order he not only diſobeyed, but even reſuſed admittance to one of the magiſtrates, who came by chance to the door : Cleonymus, enraged at this, gave the ſame command on the next day to Diocles ; but, though he ſeemed not dangerously ill, and we had great hopes of his recovery, he ſuddenly expired that very night.

Fiſt then, I will prove by witneſſes, that he made this will, not from any diſlike to us, but from a ſettled averſion to Dinias ; next, that, when Dinias was no more, he ſuperintended all our affairs, and gave us an education in his houſe, to which he had removed us ; and thirdly, that he ſent Poſidippus for the magiſtrate, who was ſo far from obeying the order, that,

when one of the proper officers came to the door, he refused to introduce him. Call those who will prove the truth of my assertion. WITNESSES. Call likewise those, who will swear, that Cephifander and the other friends of our adversaries were of opinion, that the whole estate should be divided, and that we should have a third part of all, which Cleonymus possessed. WITNESSES.

Now it seems to me, judges, that all those who contend for the right of succession to estates, when, like us, they have shown themselves to be both nearest in blood to the person deceased, and most connected with him in friendship, may be excused from adding a superfluity of other arguments: but since men, who have neither of those claims, have the boldness to dispute with us for that which is legally ours, and to set up a fictitious title, I am willing in a few words to give them an answer. They ground their pretensions on this will, and admit that Cleonymus sent for the magistrate; not, say they, with an intent to cancel it, but with a resolution to correct it, and to secure the legacy more strongly in their favour: now consider, whether it be more probable, that our uncle should wish to recall a will made in anger, at a time when he was most intimate with us, or should meditate by what means he might

be surest to deprive us of his inheritance. Other men, indeed, usually repent at length of the wrongs, which they have done their friends in their passion; but our opponents would convince you, that, when he showed the warmest regard for us, he was most desirous of establishing the will, which, through resentment against our guardian, he had made to our disadvantage: so that, even should we confess this idle fiction, and should you persuade yourselves to believe it, you must suppose him to have been mad in the highest degree; for what madness could be greater than to injure us, because he had quarrelled with Dinias, and to make a disposition of his property, by which he took no revenge on his enemy, but ruined his dearest friends, and afterwards, when we lived with him on terms of the strictest friendship, and he valued us above all men, to intend that his nephews alone (for such is their assertion) should have no share in his fortune? Could any man, judges, in his senses entertain such a thought concerning the distribution of his estate?

Thus from their own arguments they have made it easy to decide the cause against themselves; since if he sent for the officer, as we contend, in order to cancel the will, they have not a shadow of right; and, if he was so void of reason, as to regard us least, who were most

nearly connected with him, both by nature and friendship, you would justly decree, that his will was not valid. Consider farther, that the very men, who now pretend, that Cleonymus designed to establish their legacy, durst not obey his order, but dismissed the magistrate, who came to the house; and thus, one of two most opposite things being likely to happen, either a stronger confirmation of the interest bequeathed to them, or a total loss of all interest in the fortune of the testator, they gave a plain indication of what they expected, by refusing to admit the person who kept the will.

To conclude: since this cause has been brought before you, and since you have power to determine the contest, give your aid both to us and to him, who lies in the grave; and suffer him not, I adjure you by all the gods, to be thus despised and insulted by these men; but, remembering the law, by which you are to judge, the oath, which you have solemnly taken, and the arguments, which have been used in the dispute, give a just and pious judgement, conformably to the laws.

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SPEECH THE SECOND.

ON THE ESTATE OF PYRRHUS.

THE ARGUMENT.

PYRRHUS left his estate to Endius, one of his sister's sons, whom he had adopted ; and his nephew continued in possession of it above twenty years ; but when, after his death, his mother claimed the inheritance as her brother's heiress, one Xenocles, who had married Phila, a natural daughter of Pyrrhus by the sister of Nicodemus, entered a protestation, that Pyrrhus had a legitimate daughter, and was consequently disabled from disposing of his estate to an adopted son. Xenocles lost the cause ; but, Nicodemus having sworn at the trial, that he had betrothed his sister to Pyrrhus as a lawful wife, and that Phila was born after their nuptials, the brother of Endius prosecutes Nicodemus for wilful perjury, insisting that Phila was illegitimate, and actually given in marriage to Xenocles as the bastard of Pyrrhus.

SPEECH THE SECOND.

The Brother of Endius against Nicodemus.

PYRRHUS, my maternal uncle, judges, having no legitimate children, adopted my brother Endius, who succeeded to his fortune, and continued in possession of it above twenty years; in which long interval not a single man ever pretended to controvert his title, or to dispute the validity of his adoption: but, last year, on the death of my brother, this Phila, who had suffered him to enjoy the estate without interruption, asserted, that she was the legitimate daughter of my uncle; and her husband Xenocles the Cyprian entered a claim in her right to the effects of Pyrrhus, who had so long been dead, alledging in his bill of complaint, that he died possessed of three talents; and, when my mother insisted on the superiority of our claim, he had the confidence to protest, that she had no title to the estate, because Pyrrhus, to whom it originally belonged, had left a daughter born in wedlock: we traversed this protestation; and, having brought before the court the person who ventured to make it, we clearly convicted him of having sworn falsely, and prove his confe-

derate Nicodemus to be the most impudent of men in supporting the other's testimony, and daring to assert upon oath, before the same judges, that he had betrothed his own sister to my uncle, and that she became his lawful wife. Now that this man's evidence at the former trial was false, the conviction of Xenocles undeniably demonstrates; for, if Nicodemus had not then been thought perjured, it is clear, that his associate would have succeeded in his protestation; that the legitimacy of this woman would have been established; and that she, not my mother, would have been declared my uncle's heiress; but, since the principal actor in the cause was convicted of perjury, and the pretended daughter of Pyrrhus desisted from her claim, Nicodemus was at the same time necessarily found guilty of giving false evidence; for he swore to the truth of the same proposition, and they were both examined to the same point, namely, whether the woman, in whose right Xenocles claimed, was my uncle's daughter by a wife or by a harlot: this was the single issue between us, as you will perceive by hearing our cross-depositions, the evidence of Nicodemus, and the protestation, which was over-ruled. Take and read them to the court. CROSS-DEPOSITIONS. EVIDENCE. PROTESTATION.

That the man, whom I now accuse, was im-

mediately thought guilty of perjury, was apparent to all who attended the trial; but it will be proper that his guilt be proved before you also, judges, who are assembled to decide the same question.

I desire first to ask this witness himself, what fortune he gave with his sister to a man worth three talents; whether this betrothed wife left her husband, whilst he was alive, or departed from his house after his death; from whom he received his sister's portion, when Pyrrhus was dead, to whom he has sworn that he had given her in marriage; or, if it was not restored to him, what action he thought proper to institute, for her maintenance or her fortune, against one, who has been twenty years in possession of the inheritance; or whether, in so long a period, he once demanded the portion from the heir in any man's presence? On the following points too I should be glad to interrogate him; why nothing of what I have just mentioned has been done for a widow, who, as he swore, was lawfully married; and, whether she had been betrothed to any other man, either of those, who were formerly connected with her, before she knew my uncle, or of those whom she admitted to her favours, while she lived with him, or of those, who have been intimate with her since his decease? for it is notorious, that her brother

gave her on the same terms to many others, who kept her as a mistress, and whom, if it were necessary to enumerate, it would give me no small trouble: some of them I will mention, if you command me; but, if it be as unpleasant to you to hear such tales, as it is disagreeable to me to relate them, I will be contented with producing the very evidence given at the former trial, no part of which they have ventured to contradict; yet, when they admit (as they have in fact admitted, by not attempting to impeach the testimony of our witnesses) that this woman was a common harlot, how can it be conceived, that she was legally betrothed to Pyrrhus? You will be convinced, when you have heard the depositions, both that Nicodemus has sworn what was apparently false, and that the judges gave a proper and legal sentence, when they decreed, that the succession could not belong to the daughter of a woman not lawfully married. Read the depositions, and let the water-glass be stopped. DEPOSITIONS. That the mother of this Phila was common to all who chose to be connected with her, and was not the betrothed wife of my uncle, as Nicodemus had the boldness to swear, has been proved to you by the other kinsmen and neighbours of Pyrrhus, who tell you of the quarrels, riotous feasts, and continual disorders

on her account, while she lived with him; but no man presumes to revel at the houses of married women, who never accompany even their husbands to publick entertainments, nor think it consistent with decency to sit at table with strangers, especially with the first who present themselves; yet they have not attempted to invalidate this evidence: now to show that I repeat it fairly, read once more the depositions of the neighbours, together with those of the other witnesses concerning her numerous train of lovers, which will satisfy the court, that she was a common prostitute, and never was the mother of a legitimate child. DEPOSITIONS.

From all this evidence, which you will carry in your memory, it is apparent, that the sister of Nicodemus, whom he swore that he gave in marriage to my uncle, might have been any man's mistress, but was never betrothed to any, nor ever supported the character of a matron: let us now consider the circumstances, from which it may be thought possible, that Pyrrhus really married so abandoned a woman, if we can suppose him capable of such indiscretion (for it sometimes happens indeed, that young men, inflamed with the love of a harlot, and actuated by intemperate passion, are induced by their folly to ruin themselves by such a marriage); and how can these circumstances be more clearly

known, than by recollecting the testimony of their own witnesses in the original cause, and by examining the probability of the whole transaction? Reflect a moment on the impudence of their assertion: this Nicodemus, when he was going, as he says, to betroth his own sister into a family worth three talents, pretends that he carried with him, on such an occasion, one witness only, named Pyretides, whose deposition they produced at the trial of the cause; a deposition, which Pyretides himself disclaimed; and he still denies, that he gave any such evidence, or knows any thing of the matter. In confirmation of this, I will mention a convincing argument, that the deposition produced by them was forged; for you all know, that when we are going to do any publick and deliberate act, which must be witnessed, we take with us our nearest relations and most intimate friends, in order to have the benefit of their attestation; but in private acts, which are often done on a sudden, we are contented with such witnesses, as happen to be near at hand; and, when afterwards their evidence becomes necessary, we must call those, whoever they are, that were present at the time of the act; but when we procure the testimony of a witness, whom sickness prevents from giving it, publickly, or of one who is going abroad, we desire the presence of the

most reputable citizens, and of those whom we best know, not of one or of two, but of as many as we can assemble, to preclude the deponent at any future time from the power of denying his deposition, and to give his evidence more weight with you, judges, by confirming it with the attestation of many honest men: thus, when Xenocles went to Thebes, with an intention to eject our servants from the mines, which had been left us, he thought it not sufficient to call any persons, who happened to be there, as witnesses of that ouster, but he carried with him Diophantus of Sphettus, who was his advocate in the original cause, and Dorotheus of Eleufis, together with his brother Philochares, and many others, whom he had collected at Athens, and who travelled for that purpose full three hundred furlongs; yet, when he was going, as he says, to take a deposition in this very city concerning the marriage of his wife's mother, on which her legitimacy depended, he called together none of his friends, but only Dionysius of Erchia and Aristolochus of Æthalia, in the presence of whom it is asserted that the deposition was taken in the heart of Athens. Such are the pretences of these impostors, none of which can find credit with any discerning man! The act, which they say Pyretides attested, was frivolous, to be sure, and of a tri-

fling nature ; so that their negligence in this affair was not singular. How ! was not that act to have determined the very point, on which Xenocles was tried for perjury, whether his wife was the daughter of Pyrrhus, by a married woman, or by a harlot ? Would he not, if such a marriage had really been contracted, have assembled all his friends for the purpose of attesting it ? Most assuredly he would, if their story had not been a fiction ; but Xenocles omitted this necessary precaution, and took only two persons, whom he accidentally met, to be present at a deposition of such importance ; and this Nicodemus himself pretends, that when he gave his sister in marriage to a man of so considerable a fortune, he carried with him no witness but Pyretides, who absolutely denies the fact. Lyfimenēs, indeed, asserts that he was invited to the marriage, together with his brothers, Chæron and Pylades ; and these three were the uncles of the man, who was going to form so debasing an alliance : but you will consider, whether this be credible ; for, to reason from probabilities, I should imagine, that Pyrrhus would rather have kept the transaction secret from all his relations, if he meditated a contract so disgraceful to his family, than have called his own uncles to be witnesses of their disgrace. This also fills me with surprize,

that there was no agreement concerning a portion either on the one side or on the other ; for, if Nicodemus gave his sister a fortune, it is to be supposed, that those, who pretend to have been present, would have recollected the sum given ; or, if our uncle was so enslaved by his passions, as to marry a common prostitute, her brother would have been still more solicitous to procure evidence of his giving money with her, and would have assembled a number of witnesses, that Pyrrhus might not have it in his power to discard her, when he pleased ; for none of you are ignorant, that the inclinations of men, impelled by their desires are very changeable ; yet this fellow swears, that he gave his sister in marriage to so rich a man before one witness only on his part, and without any acknowledgement of a portion ; and the uncles assert, that they were present, when their nephew agreed to marry this harlot without a fortune.

These very uncles too have sworn that they were invited by Pyrrhus to an entertainment, which he gave on the tenth day after the birth of his daughter : and here I cannot suppress the vehemence of my indignation, when I see, that Xenocles, who claims the patrimony of his wife, has called her in his bill of complaint by the name of Phila, while the uncles of Pyrrhus,

who swear that they were present on the tenth day, have declared, that her father gave her the name of her grandmother Clitaretā. It is astonishing, that a man, who has now been married above eight years, should not know the true name of his own wife ; that he could not have learned it before from his own witnesses ; that neither his wife's mother, nor her uncle Nicodemus, should in so long a period have informed him of it ; but that, instead of her grandmother's name (if that name was in fact given her by Pyrrhus) he should insert the name of Phila in the very bill, by which he demands her paternal inheritance. What could be his motive ? Could a husband mean to deprive his wife of her grandmother's name, which her father gave, and which might be urged as a proof of her legitimacy ? Is it not apparent, judges, that these pretended transactions, which, as they swear, happened so long ago, were invented by our adversaries long since the beginning of this suit ? They manifestly were : for it is not possible, that these men, who say they were invited on the tenth day after the birth of this girl, the daughter of Pyrrhus and niece of Nicodemus, should remember so accurately from that day, whenever it was, to this, and should swear in court so positively, that her father named her Clitaretā, yet that her nearest relations, her fa-

ther himself, her uncle, and her mother, should not know the name of their own child: they must have known and used it, if the fact had been true; but of this I shall again have occasion to speak.

As to the testimony of Nicodemus, it is easy to perceive from the laws themselves, that he was apparently guilty of perjury; for, since, when a man gives a female relation in marriage with a sum of money by way of free gift and not as a portion, for which an equivalent must be settled, he cannot legally require that money to be given back, if either the wife should leave the husband, or the husband dismiss the wife, whoever asserts that he has betrothed his own sister without a security for her portion, must necessarily appear a most daring impostor: for what would such an alliance avail him, if the man to whom he was allied might repudiate his wife, whenever he chose, without inconvenience? Yet such would have been her condition, judges, had there been no stipulation concerning her fortune. Would Nicodemus have engaged his sister to our uncle upon these precarious terms, especially when he knew that she had never borne a child in so long a course of prostitution, and that the stipulated portion would by law return to him, if she should die childless? Can any of you, judges, believe, that

Nicodemus is so negligent of lucre, as to let slip one of these advantages? I cannot think it probable: And is this the man, whose sister our uncle chose to marry? A man, who in an action brought against him as an intruder by one of the ward, of which he pretended to be a member, obtained indeed a sentence in his favour, but was adjudged a freeman of the city by a majority of four votes only? Read this deposition, in proof of what I have alledged. DEPOSITION. Yet this very man, who was perfectly well apprized of the law, by which he would have been entitled to his sister's fortune, had she died without children, has ventured to swear, that he gave her in marriage to our uncle, without agreeing with him for her portion. Read the laws, to which I allude. THE LAWS. Can you, I say again, believe that Nicodemus, if there had been any such marriage, would have been so stupidly neglectful of his interest, as not to provide for his own advantage with a scrupulous attention? No, by heaven, it seems impossible, for even those, who give women to others, as their mistresses, with a sum of money, take care previously to bargain for the benefits, which those women are afterwards to enjoy: and was Nicodemus contented with the ceremony of betrothing his sister according to the forms of law, without bestowing a thought

upon any thing else? Nicodemus, who, for the paltry fees, which he hopes to scrape together for speaking sometimes before you, makes no scruple of acting with shameless dishonesty? His infamous conduct, indeed, most of you well know, without being reminded of it; and I am desirous of proceeding to another argument, which will demonstrate the abominable impudence of his assertions. Tell me, Nicodemus, how came it, that if you really gave your sister in marriage to Pyrrhus, and if you knew that she had left a legitimate daughter, you nevertheless permitted our brother Endius to claim and obtain the inheritance, without regarding our uncle's daughter, who was born, as you alledge, in lawful wedlock? Could you be ignorant, that, by his allowed claim of the succession, your niece was bastardized? For, whenever an adopted son sets up a title to an estate and obtains a decree in his favour, he proves the daughter of the deceased to have been illegitimate; as her father Pyrrhus, indeed, had done long before, by adopting my brother as his own son; for no man, who has daughters lawfully begotten, can either devise his estate from them, or aliene any part of it to their disadvantage: this you will clearly understand, judges, when the laws themselves have been read to you. THE LAWS. Does it seem pro-

bable then, that, if Nicodemus did betroth his sister, as he has most confidently sworn, he would have suffered my brother Endius to claim the inheritance, without setting up the adverse title of his own niece, and without entering a protestation, that Endius had no right to her patrimony? Now that our brother not only claimed this estate, but had his claim judicially allowed, and that without opposition, this piece of evidence will convince you. DEPOSITION. When, therefore, Endius instituted a suit for his inheritance, Nicodemus neither durst dispute his title, nor thought proper to protest, that Pyrrhus left a legitimate daughter, who was his niece: he will invent, I suppose, some silly pretext for this conduct, and will pretend either that he was unapprized of our proceeding, or that our allegations are false; but the first is impossible, and the second we have disproved: let us proceed to another topic.

When our brother gave your niece in marriage to Xenocles, would you, Nicodemus, have suffered a girl, whom Pyrrhus lawfully begot, to be given away as the daughter of his mistress? Would you not have informed the Archon, that she, being an heiress, was grossly injured by an adopted son, and deprived of her paternal estate? especially as these informations alone may be made without danger to the in-

formant, since any man, who pleases, may sue on behalf of an heiress, and the complainants in such causes are never amerced, even though the court unanimously decide against them ; nor are they obliged, like other suitors, to deposit money as a pledge of supporting their complaint ; but the prosecutors may proceed without inconvenience, while the defendants, if they are convicted, seldom fail to suffer an exemplary punishment. If then, judges, the niece of Nicodemus had been really legitimate, would he patiently have seen her disposed of in such a manner, and not have informed the magistrate that an heiress was thus insulted by a man, who had given her away as a bastard ? No : if that, which you have now so audaciously sworn, had been true, you would instantly have taken your revenge of Endius, who had injured your niece ; unless you pretend, that you were ignorant of this fact also. What ! did not you perceive from the very portion which Xenocles took with her, that she was rejected as illegitimate ? This alone should have excited your resentment, and induced you to lay an information against Endius, for claiming (as he did justly claim) an inheritance of three talents, and for giving a legitimate daughter of the deceased in marriage to a stranger, with no greater portion than ten minas.—Would not this have raised

his indignation? Would he not have complained to the magistrate? He would most certainly, had the marriage been true: nor can I persuade myself, that either Endius, or any other adopted son, would have been so absurdly regardless of the laws, as to give a legitimate daughter of his father in marriage to another, instead of marrying her himself; for he could not but perfectly know, that the children of such a daughter would inherit their grandfather's estate; and would any man apprized of this law give his property away to another, especially so large a fortune as these confederates have claimed? Can any of you imagine, that an adopted son would be so outrageously daring, as to betroth such a daughter, without giving her so much as the tenth part of her own patrimony? Can you imagine, that, when this affair was in agitation, her uncle, who has sworn that he gave her to Pyrrhus, would have indured such an insult? I cannot believe it—no: he would have contended for the succession; he would have entered a protestation; he would have informed the Archon; and would have followed any course that might effectually have secured the right of his niece. Yet, I repeat it, when my brother disposed of this girl as of a bastard, Nicodemus, who calls her his niece, neither thought fit to assert her claim to the fortune of Pyrrhus,

nor to exhibit an information against the man, who had thus vilified her, nor was he at all indignant at the pitiful portion, which her husband received, but shamefully acquiesced in all these transactions.

On each of the points just mentioned the laws are explicit; but read first the deposition concerning the claim and adjudication of the inheritance, and afterwards that concerning the pretended marriage. DEPOSITIONS. Next read the law. THE LAW. To close the whole, read once more the deposition of the defendant. DEPOSITION OF NICODEMUS. Now in what manner can an accuser more clearly convict the person accused, than by adducing proofs both from the man's own conduct, and from the laws of his country? Of Nicodemus, therefore, almost enough has been said.

Consider now, whether the very man, who married his niece, may not afford a convincing argument of his guilt. It has been given in evidence, that Xenocles took the girl as an illegitimate daughter of Pyrrhus, and he himself established the truth of that evidence, by his long acquiescence; for, had he taken her from Endius as one born in lawful matrimony, he would not have neglected, when so many of his children by her were adult, to assert against my brother her claim to her paternal inheritance; es-

pecially, when he was prepared to deny that Endius had really been adopted by Pyrrhus, and excepted to all the witnesses, who swore that they were present at the execution of the will; as their deposition, which shall now be read, will convince you. DEPOSITION. By the actions, indeed, of these confederates, they manifestly acknowledged the validity of that adoption; for, had they thought it impeachable, they would not have submitted to the long possession of the last occupier, nor have delayed till now the claim of this woman to the fortune of Pyrrhus, who has been dead above twenty years, whereas Endius died only last year in the month of October, and they put in their claim on the third day after his death: now the law ordains, that whoever has a title to an estate must claim it within five years after the decease of the last possessor; so that Phila had only this alternative, either to contend with Endius, while he lived, for her paternal estate, or, after the death of the adopted son, to claim the fortune of her brother by right of succession; especially if Endius, as these men alledge, betrothed her to Xenocles, as his legitimate sister; for we all perfectly know, that it is necessary to make a formal claim to a fraternal inheritance, but that, when a man leaves children lawfully begotten, they immediately enter upon their patrimony

and enjoy it without litigation. Thus you and all other citizens possess your paternal fortunes without fear of controversy ; yet these associates are bold enough to insist, that an adopted son ought not to claim the fortune, which his father left him, while they are claiming the patrimony of Phila, whom they pretend to be the legitimate daughter of Pyrrhus : the very reverse of which is the practice established by law ; for, as I before observed, legitimate children ought not to demand a decree for their paternal inheritance, but sons adopted by will are bound to sue for an adjudication of the estate devised to them ; because no man would controvert the right of an heir by descent, whereas all the relations of the deceased would eagerly engage in a contest with an heir by appointment. Lest any stranger, therefore, who pleased, should commence a suit for such estates, and lest others should dare to claim them as vacant inheritances, all heirs by adoption are obliged to have their title formally allowed : none of you then can suppose, that Xenocles, if he really believed his wife to be legitimate, would have claimed her patrimony in court ; but she would have entered, as lawful heiress, on the lands of her father ; and, if any one had used violence or attempted forcibly to retain the possession, she would have ejected him, as she might, from her

paternal estate ; nor would her opponent have been exposed to a private lawsuit only, but even to a publick information before the Archon, who might have inflicted a corporal punishment, or imposed a heavy fine. I may add, that these uncles of Pyrrhus, if they had known that their nephew left a legitimate daughter, and that neither Endius nor any of us would marry her, would never have permitted Xenocles, who bore no relation to the deceased, to take a woman, who belonged to them as her next of kin : that would have been inconceivably strange. The law commands, that both such daughters as have been given in marriage to strangers by their own fathers (yet who can determine better than a father, what may be for his daughter's advantage ?) and such as remain single, shall be married to their nearest relations, if their fathers die without leaving sons begotten in wedlock ; and many men have had their wives taken from them by force of this law : would any one of Pyrrhus's uncles then have suffered Xenocles to marry a daughter of their nephew, when the laws had adjudged her to one of them, and thus have made a stranger heir to so large an estate, instead of themselves ? Never believe it, judges ; for no man prefers another's interest to his own ; but if they should pretend, that the adoption of Endius prevented the woman from having the

quality of an heiress, on which account they did not demand her in marriage for one of themselves, let them first be asked, why, if they allow that Endius was adopted, they took exceptions to all the witnesses who attested his adoption, and why they passed him over, who was last possessor of the lands, and now illegally and informally have claimed the estate for Phila as heiress to the deceased? Ask them also (and oppose these interrogatories to their impudence) whether any legitimate child ever thinks it proper to obtain a sentence of the court for his own patrimony? That this girl, however, was truly an heiress and liable to be married to her nearest kinsman, if she was not illegitimate, most evidently appears from the law, which expressly ordains, that every man may dispose of his estate by will, as he pleases, unless he has legitimate sons; and that, if he has daughters, he may bequeath his property, but the legatees are bound to take them in marriage; so that a man is allowed to devise his possessions together with his legitimate daughters, but without them he can neither constitute an heir by adoption, nor appoint a successor by will to any part of his estate: if Pyrrhus, therefore, adopted Endius without providing for his marriage with his daughter, such an adoption was illegal and consequently void; but if he gave her together with

his fortune to his adopted son, how came it that you, the uncles of Pyrrhus, permitted Endius, without taking her, if she was lawfully begotten, to procure a decree for establishing his own title to the succession? especially if your nephew, as you gave in evidence, had requested you to superintend the interests of the girl? This too, honest men, you will say, escaped your memory: yet, when she was betrothed and given away by Endius, you, her father's uncles, suffered the daughter of your nephew to be thus treated as his bastard; you, who swear that you were present, when Pyrrhus took her mother as his lawful wife, and that you were invited by him to an entertainment on the tenth day after the child's birth. Thus, when your nephew had enjoined you (for this is the worst part of your conduct) to consult the girl's interest, your mode of consulting it was to let her be disposed of as base born, though she bore the name, as yourselves have sworn, of your own sister. From all this, as well as from the reason of the thing, it is manifest, that these confederates are the most impudent of mortals; for with what view could my uncle, if he had a legitimate daughter, adopt my brother as his son? Had he any nearer kinsmen than we, whom he meant to exclude from the right of demanding his daughter in marriage? But there neither

existed nor exists (for he had no sons) any nearer relation to him than ourselves; since he had no brothers, nor brother's sons, and we are the children of his sister. They will urge, that, had Pyrrhus chosen to adopt any of his other kinsmen, he would have given his daughter, together with his estate; yet why should he thus openly and unnecessarily affront any one of his relations? It was in his power, if he had really married the sister of Nicodemus, to introduce his daughter by her to the men of his own ward, as born in wedlock; by which care he might have made her sole heiress of all his fortune, and might have directed, that one of her sons should be adopted as his own; for he well knew, that, by leaving her his heiress, either one of us, his nephews, might have procured a decree for taking her in marriage, or, in case of our refusal, one of these ready witnesses, his uncles, might have married her; or, had they too declined the match, his next nearest relation might have taken her, by a sentence of the court, with all his property; this he would have effected by introducing her as his daughter to the ward, of which he was a member, and by not adopting my brother; but by the adoption of Endius, and the want of admitting Phila as his daughter, he not only declared her, as he ought to do, illegitimate, and deprived her of all right

to the succession, but actually appointed my brother heir to the whole estate.

Now, to convince you, that our uncle neither gave a nuptial feast, nor thought proper to admit the girl, whom they call his legitimate daughter, to his ward, according to the ancient custom, the testimony of those, who belong to the same ward, shall be read to you—Read: and do you stop the water-glass. DEPOSITION.

Read now the proofs of my brother's adoption.

EVIDENCE. Can you then give credit to the testimony of Nicodemus, in preference to the superior evidence of my uncle's own conduct?

Will any man endeavour to persuade you, that Pyrrhus really married a common harlot? You

will not be persuaded, unless Nicodemus inform

you, as I said in the beginning of my speech,

with what portion he betrothed his sister to

Pyrrhus; before what magistrate she declared,

that she had left her husband or his house; by

whom her fortune was returned to him, after

the death of my uncle; or, if he could not ob-

tain a restitution of it in the course of twenty

years, what action he brought for her alimony

or for her portion against the occupier of the

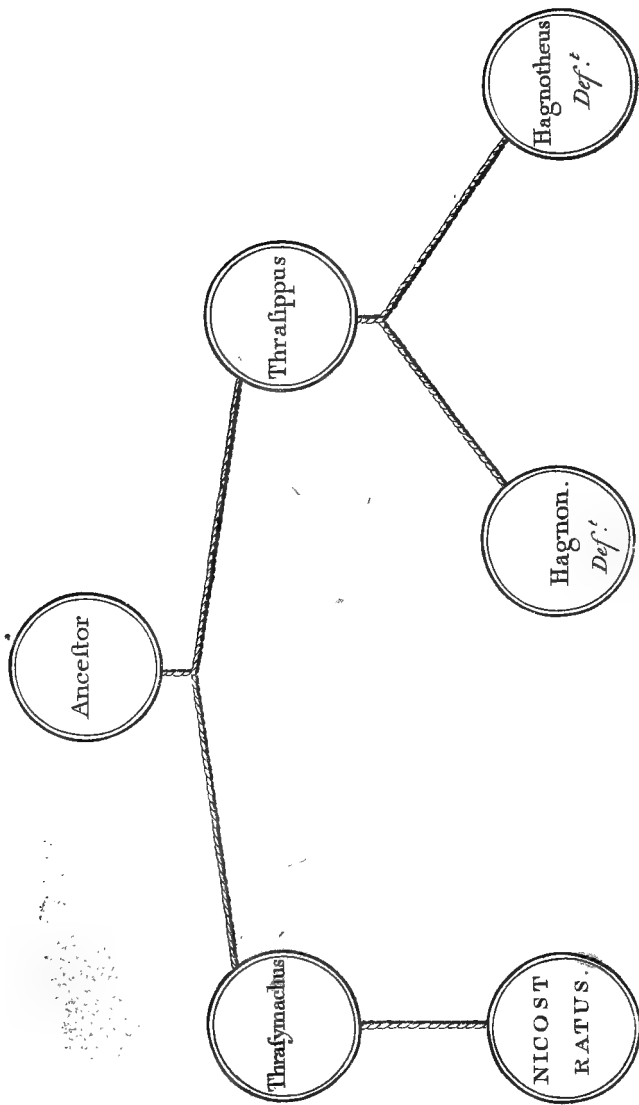
estate: let him also declare, whether he had be-

trothed her to any one else, either before or af-

ter her pretended marriage with Pyrrhus, or

whether she had children by any other man.

Interrogate him to these points, and do not forget to examine him concerning the marriage-feast supposed to be given to the members of his ward ; this is no light argument against the testimony of Nicodemus ; for, could they have prevailed with him to marry the woman, he might surely have been induced to give an entertainment to the men of his ward, and to present this girl to them as his legitimate child, who, if he had been really married, was heiress to a fortune of three talents. He would have been obliged also to entertain the wives of his companions at the festival of Ceres, and to have borne such offices in his borough on account of his wife, as are required from a man of his possessions : yet nothing of this kind will appear to have been done. The members of his ward have given their evidence : I shall, therefore, conclude with the testimony of his fellow-burgesses. DEPOSITIONS.



SPEECH THE THIRD.

ON THE ESTATE OF NICOSTRATUS.

THE ARGUMENT.

NICOSTRATUS dying in a foreign country, Hagnon and Hagnotheus, his first cousins, contend for the right of succession to his estate against Chariades, who claims under a will. This speech is by some supposed to have been delivered by Isæus in his own person as next friend to the young men, whose cause he supported; but Reiske well observes, that no argument in favour of this opinion can be drawn conclusively from the opening of the speech; since the words *my intimate friends* might have been used by any other speaker.

SPEECH THE THIRD.

Hagnon and Hagnotheus against Chariades.

SINCE Hagnon and Hagnótheus, judges, are my intimate friends, and their father long ago was closely connected with me, it will become me to defend them with the best of my abilities: now as neither of them has ever been out of Attica, it will not be possible for them to come prepared with evidence of transactions in foreign parts, nor easy to confute their opponents, if they should tell a fictitious story; but what has passed in our own country will, in my opinion, afford a sufficient proof, that all they, who claim the fortune of Nicostratus as legatees, aim only at deluding and insulting you.

First then, judges, it will be proper for you to consider the difference of the names in our respective bills of complaint, and to determine which claim has been made more naturally and with more simplicity; for Hagnon and Hagnotheus have alledged in their bill that Nicostratus was the son of Thrasymachus, and declare that they are his cousins, both which allegations they prove by witnesses; but Chariades and his

coadjutors in this cause assert, that one Smicrus was the father of Nicostratus, yet claim those effects which belonged to the son of Thrasymachus; and, though my clients neither pretend to know the name of Smicrus, nor are related to any person, but maintain that Thrasymachus was the father of their cousin, yet to this estate also these associates have set up a title. If each party agreed in the name, nothing more would be left for your decision, than singly, whether that Nicostratus, whom both sides have in contemplation, made a will or not; but how can the same man be said in the same cause to have two fathers? To this absurdity has Chariades reduced himself; for having claimed a right of succession to Nicostratus the son of Smicrus, he has instituted his suit against those, who claim as next of kin to the son of Thrasymachus, and has tendered an issue, that the son of both these men was one and the same Nicostratus. Now all this is a mere trick and a preconcerted scheme; for they are well aware, that while the case remains simple and not involved in this perplexity, my friends will have no difficulty in proving, that Nicostratus never made a will; but, if they introduce the name of a different father, and contend, nevertheless, for the same estate, they are perfectly sensible, that we must use a longer argument to prove, that Nicostratus was

the son of Thrafymachus, than to convince you, that no will was made by him: besides, had they confessed, that Nicostratus was his son, they could not have denied, that these young men were cousins to the deceased; but by fabricating a new father to him, they have drawn into question not his will only, but his pedigree.

This contrivance, and not this alone, but all that has happened from the beginning, will convince you, that other persons, besides those who appear in the cause, have brought this trouble on my clients; for, when the succession to a fortune of two talents had been six times litigated, who did not shave his head? Who did not put on mourning cloaths? As if by a false show of sorrow they were sure of succeeding to the estate. How many fictitious kinsmen and self-adopted sons laid claim to the goods of Nicostratus? First, one Demosthenes pretended to be his nephew; but, when he was confuted by the true heirs, he withdrew his demand. Telephus next asserted, that the deceased had made a gift to him of all his property; but he too was very soon reduced to silence: then came Amaryniades, bringing to the chief magistrate a child not three years old, as the son of Nicostratus, who for eleven years together had been absent from Athens. Next, Pyrrhus of

Lampra was absurd enough to alledge, that the deceased had consecrated his whole fortune to Minerva, and yet had given the same fortune to him. Lastly, Cranaus and Ctesias of Bessa began with asserting, that they had obtained judgment for one talent in a suit against Nicostratus; and, when they failed in their proof, had the impudence to declare that he had been their freedman. These were the men, who first led their forces against the possessions of Nicostratus: Chariades was then at rest; but afterwards he both set up a title for himself, and even produced his own child by a harlot, as the son of the deceased, hoping either to be master of the estate, or to procure for his bastard the freedom of the city; till perceiving, that he should be unable to prove him legitimate, he discontinued the claim of the infant, and has put in issue his own right under a will.

It were much to be wished, judges, that every claimant of an estate by gift or testament, who fails in proving his title, should not pay the ordinary costs of the suit, but be amerced for the publick benefit to the full amount of the fortune which he falsely claimed; for then, neither would the laws be despised, nor families insulted by these impostors, nor fictions invented about the dead: but, since all strangers who please may at no great expence dispute the right of

ſucceſſion to any eſtate whatever, it behoves you to weigh the pretenſions of ſuch men with a ſcrupulous exactneſs, and to let no exertion of your faculties be wanting in ſuch a cauſe. To me, indeed, it ſeems that in ſuits concerning wills, and in them only, greater ſtreſs ſhould be laid on circumſtantial proof than on the poſitive aſſertion of witneſſes ; for, when other inſtruments are litigated, it is not always difficult to prove a witneſs perjured, when he ſwears in the lifetime and even in the preſence, as it often happens, of the ſuppoſed party to the deed ; but when the validity of a will is in diſpute, how can it be known that falſe evidence is given, unleſs there be palpable contradictions in it, when the teſtator is no more, his family are uninformed of the tranſaction, and the mode of proof is by no means clear or convincing ? Let me add, judges, that the generality of teſtators ſay nothing to the witneſſes concerning what they have bequeathed, but call them only to att-eſt the ſimple execution of the will : now it frequently happens, that the inſtrument is altered, and a forged will ſubſtituted for the real one ; while the witneſſes are ignorant whether that produced in the ſuit be the ſame with that which they att-eſted. Since then even they, who were confeſſedly preſent, are liable to be deceived, how much more readily will they at-

tempt to impose upon you, who know nothing of what passed? But the law, judges, intends, that a will shall be valid, not merely if it be executed, but if the testator be of sound memory: you must first, therefore, consider, whether a will was made at all, and next whether the maker of it had his senses at the time; now, since we deny, that any such instrument existed, how can you enquire concerning the sanity of the testator, before you are convinced that he made his testament? Observe therefore the difficulty of discovering, whether the claimants under a will have truth on their side: but, as to those who claim by right of succession, in the first place no witnesses need be called to substantiate that right, since all agree, that the possessions of the dead regularly devolve to their next of kin: besides, not only the laws concerning consanguinity, but also those concerning the alienation of estates, are favourable to kinsmen; for they suffer no man to dispose of his effects, who has lost his reason either from age or sickness, or any of those infirmities, which, as you know, are incident to nature; but the nearest relation of an intestate, whatever might have been the state of his faculties, has an undisputed title to his property. Add to this, that you must establish wills on the credit of witnesses, by whom you are liable to be deceived

(for if none were to swear falsely, there would be no prosecutions for perjury), whilst in the other case you confide in none but yourselves ; for the nearest relations succeed to estates by laws, which yourselves have enacted.

To all this likewise we may add, that, if those who now claim under the will had been undeniably friends to Nicostratus, even that would not be conclusive in their favour ; but there would then have been a probable ground for supposing the testament to be genuine ; since persons, who have no affection for their kinsmen, have sometimes preferred to their nearest relations by blood those who were related to them only by friendship : but now we have fully evinced, that these claimants were neither friends nor companions of the supposed testator ; nor even of the same station with him in the army abroad.

Consider too another fact, which most clearly proves the impudence of Chariades ; for must he not be shamefully impudent, who neither carried out the body, nor collected the bones, after it was burned, of one who had left him a large estate ; but suffered all this to be done by persons wholly unconnected with him ; and who, though he performed none of these holy rites enjoined by the laws, has the boldness to claim the possessions of the deceased ; and,

though he neglected his duty, has not omitted even to lay hands on the goods of Nicostratus? Nor will he himself deny the greatest part of these charges: he will invent, no doubt, some fine pretences and weighty reasons for his conduct; but, what just excuse remains for a man, who plainly avows his offence?

- By this time, judges, you must be perfectly sensible, that these men have no legal right to the fortune of Nicostratus, but wish to baffle you, and to deprive his near relations of that succession, which the laws have given them: nor has Chariades alone acted thus, but many other false claimants have arisen; and, indeed, when a man dies in a foreign country, numbers often claim his fortune, who were strangers even to his person; for they think that, if they succeed, they shall enjoy the property of others, and shall not, if they fail of success, incur a considerable loss. In these cases enow may be found, who will forswear themselves, and such evidence is in its nature very obscure; in a word, there is a vast difference between the claims of the legatee and the heir of the deceased: you will first, therefore, enquire, judges, whether a will actually exists; for of this both law and justice require you to be certain; and now, since you have no personal knowledge of the transaction, and since the witnesses to the

pretended will were not friends to Nicostratus, but strongly in the interest of Chariades, who demands what he has no right to claim, what can be more just than to give the goods of a cousin to his cousins, whose effects, had he survived them, would have come to him, as their kinsmen in the same degree?

Our adversaries will perhaps assert, that Hagnon and Hagnotheus are not the cousins of Nicostratus, since the associates are labouring to support a man who claims as legatee. Why do they not rather lay claim to the estate themselves, as of kin to the deceased? Are they so silly as to relinquish such possessions for the sake of establishing a will, when by their own account it will be more advantageous for them, that the fortune of Nicostratus should be decreed to my clients than to Chariades? If my friends, who claim as kinsmen, take possession of the estate, it will at any future time be competent to the supporters of our antagonist to prove, that they are more nearly related to Nicostratus, and that he was the son of Smicrus, not of Thrasymachus; but, should Chariades gain his cause, no relation will ever be permitted to disturb him; for what can the kindred of a man alledge against him who claimed under a will, and for whom judgment has been given?

Whatever then each of you would think just,

were the cause your own, let that be your determination in the case of these youths: they have produced witnesses before you, who have proved, first, that they are the cousins of Nicostratus, as children of his father's brother; and that no disagreement ever subsisted between them; next, that they supplied the charges of his funeral; that Chariades had no intimacy with him either here or in the army, and that the connection, on which he relies, is wholly fictitious. Independently too of these proofs, it will be right for you, judges, to consider and weigh the qualities of the respective claimants. Thrasippus, the father of Hagnon and Hagnotheus, had often served your public offices, contributed to your expences, and been in all respects a virtuous citizen; nor have his sons themselves ever departed from their country except by your command; nor, while they stayed at home, have they been useless to the city; but they exert themselves in their military station, bring their contributions with alacrity, discharge every other part of their duty with faithfulness, and set an example, as all Athens knows, of decency and moderation; so that they were far worthier than Chariades to receive benefit from a will of Nicostratus; for that fellow, soon after he came hither, was convicted of larceny, having been caught in the very act,

and committed by the magistrates to prison (whence he was afterwards released) together with some other felons, whom you publickly sentenced to an ignominious death: afterwards being accused, before the council, of fraudulent practices, he made default, and, having fled from justice, was absent from this city seventeen years, and continued abroad till the death of Nicostratus; nor has he at any time fought in your defence, or contributed to your supplies, unless perhaps he has given a trifle since the commencement of this suit; but no other expence has he at any time sustained for your advantage. With this disposition, with this character, is he not contented with eluding the punishment due to his crimes, but must he add to them so audacious a claim of what belongs to others? Were my clients, indeed, malevolent and busy informers, or like too many of their fellow-citizens, he would not, I imagine, be now contending for the property of Nicostratus, but would be trembling at the consequences of a criminal prosecution. Let some other person, judges, draw the publick vengeance on his head: be it your care to protect these injured young men; and favour not those, who basely grasp at the possessions of others, before the nearest relations, and, let me add, in some measure, the benefactors of the deceased; but, call-

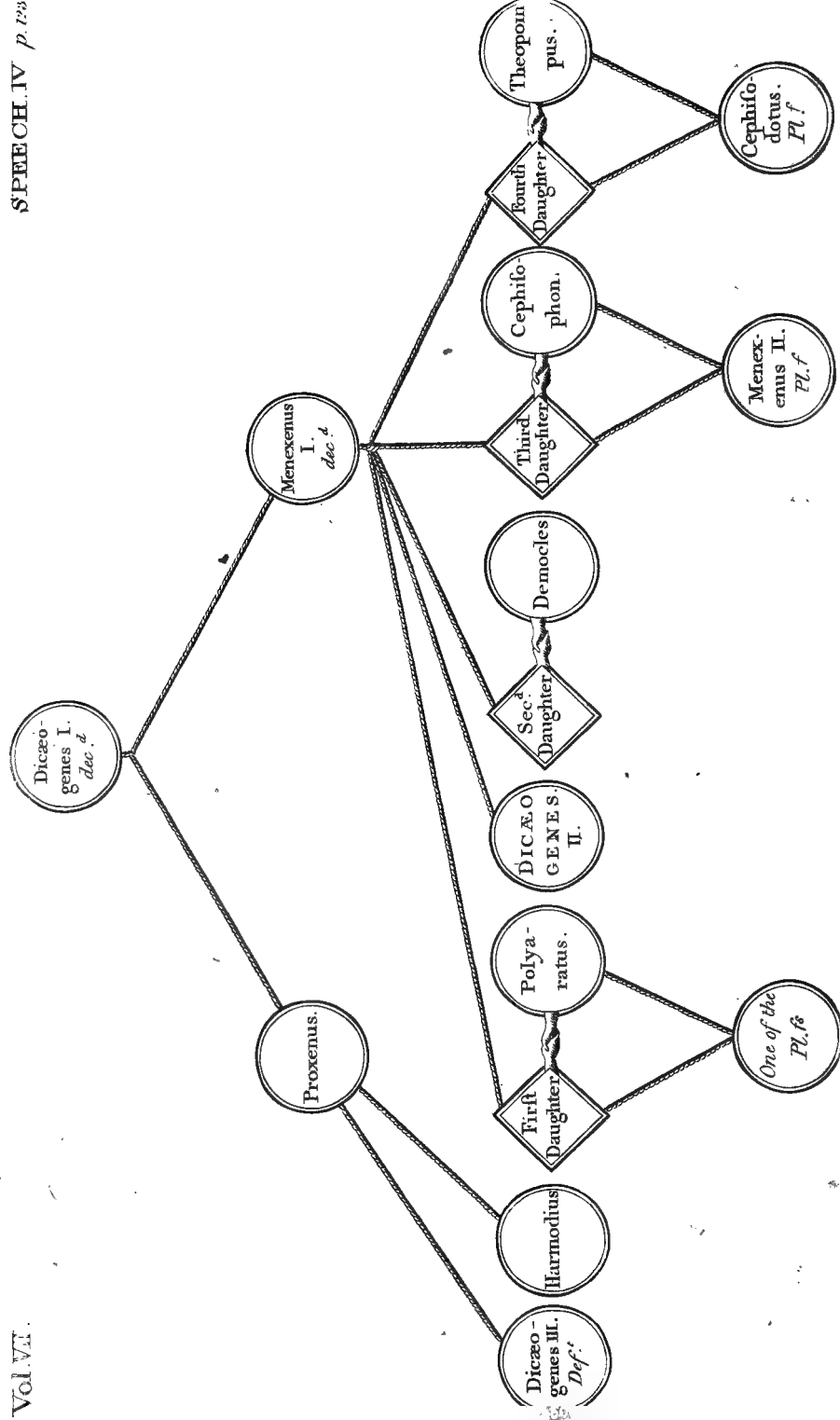
ing to mind both the laws and your oaths, and reflecting on the evidence which we have laid before you, pronounce a sentence consistent with justice and truth.

SPEECH THE FOURTH.

ON THE ESTATE OF DICÆOGENES.

THE ARGUMENT.

DICÆOGENES, whose estate is in dispute, had four sisters, all of whom were married and had issue. When he died without children, his uncle Proxenus produced a will, by which the deceased appeared to have left his cousin Dicæogenes, one of the defendants, a third part of his effects, and the legacy was accordingly delivered; but the cousin, not satisfied with a share, insisted that he had a right to the whole; and, having set up another will in his favour, obtained a decree by surprize, and took the remaining two thirds from the sisters of the deceased. Afterwards the sons of those sisters, being prepared with their evidence, disputed the validity of the second will, and proved it to have been forged; upon which Dicæogenes undertook to restore the two thirds without diminution, and one Leochares was his surety: but on their refusal to perform their promise, the nephews of the elder Dicæogenes commenced a suit against the principal and the surety for a specifick performance of their agreement.



SPEECH THE FOURTH.

Menexenus and Others against Dicæogenes and Leochares.

WE had imagined, judges, that all agreements made in court concerning this dispute would have been specifically performed; for, when Dicæogenes disclaimed the remaining two thirds of this estate, and was bound, together with his surety, to restore them without any controversy, on the faith of this assurance we gave a release of our demands: but now, since he refuses to perform his engagement, we bring our complaint, conformably to the oath which we have taken, both against him and his surety Leochares. THE OATH. That we swore truly, both Cephisodotus, who stands near me, perfectly knows, and the evidence, which we shall adduce, will clearly demonstrate. Read the depositions. EVIDENCE.

You have heard the testimony of these witnesses; and I am persuaded, that even Leochares himself will not venture to assert that they are perjured; but he will have recourse perhaps to this defence, that Dicæogenes has fully performed his agreement, and that his own office

of surety is completely satisfied: if he alledge this, he will speak untruly, and will easily be confuted; for the clerk shall read to you a schedule of all the effects, which Dicæogenes, the son of Menexenus, left behind him, together with an inventory of those which the defendant unjustly took; and, if he affirms, that our uncle neither had them in his life-time, nor left them to us at his death, let him prove his assertion; or, if he insists, that the goods were indeed ours, but that we had them restored to us, let him call a single witness to that fact; as we have produced evidence on our part, that Dicæogenes promised to give us back the two thirds of what the son of Menexenus possessed, and that Leocrates undertook to see him perform his promise. This is the ground of our action, and this we have sworn to be true. Let the oath again be read. THE OATH.

Now, judges, if the defendants intended only to clear themselves of this charge, what has already been said would be sufficient to ensure my success; but, since they are prepared to enter once more into the merits of the question concerning the inheritance, I am desirous to inform you on our side of all the transactions in our family; that, being apprized of the truth, and not deluded by their artifices, you may give a sentence agreeable to reason and justice.

Menexenus our grandfather had one son named Dicæogenes, and four daughters, of whom Polyaratus my father married one; another was taken by Democles of Phrearrhi, a third by Cephisophon of Pæania; and the fourth was espoused by Theopompus the father of Cephisodotus. Our uncle Dicæogenes, having sailed to Cnidos in the Parhalian galley, was slain in a sea fight; and, as he left no children, Proxenus the defendant's father brought a will to our parents, in which his son was adopted by the deceased, and appointed heir to a third part of his fortune; this part our parents, unable at that time to contest the validity of the will, permitted him to take; and each of the daughters of Menexenus, as we shall prove by the testimony of persons then present, had a decree for her share of the residue. When they had thus divided the inheritance, and had bound themselves by oath to acquiesce in the division, each person possessed his allotment for twelve years; in which time, though the courts were frequently open for the administration of justice, not one of these men thought of alledging any unfairness in the transaction; until, when the state was afflicted with troubles and seditions, this Dicæogenes was persuaded by Melas the Egyptian, to whom he used to submit on other occasions, to demand from us all our un-

cle's fortune, and to assert that he was appointed heir to the whole. When he began his litigation, we thought he was deprived of his senses ; never imagining that the same man, who at one time claimed as heir to a third part, and at another time as heir to the whole, could gain any credit before this tribunal ; but when we came into court, although we urged more arguments than our adversary, and spoke with justice on our side, yet we lost our cause ; not through any fault of the jury, but through the villainy of Melas and his associates, who, taking advantage of the publick disorders, assumed a power of seizing possessions, to which they had no right, by swearing falsely for each other : by such men therefore were the jury deceived ; and we, overcome by this abominable iniquity, were stripped of our effects ; for my father died not long after the trial, and before he could prosecute, as he intended, the perjured witnesses of his antagonist. On the very day, when Dicæogenes had thus infamously prevailed against us, he ejected the daughter of Cephisophon, the niece of him who left the estate, from the portion allotted to her ; took from the wife of Democles what her brother had given her as coheirs ; and deprived both the mother of Cephisodotus and the unfortunate youth himself of their whole fortune : of all these he was at the same time guardian

and spoiler, next of kin, and cruellest enemy ; nor did the relation, which he bore them, excite in the least degree his compassion ; but the unhappy orphans, deserted and indigent, became destitute even of daily necessaries. Such was the guardianship of Dicæogenes their nearest kinsman ! who gave to their avowed foes what their father Theopompus had left them, illegally possessed himself of the property which they had from their maternal uncle and their grandfather ; and (what was the most open act of cruelty) having purchased the house of their father and demolished it, he dug up the ground on which it stood, and made that handsome garden for his own house in the City. Still further ; although he receives an annual rent of eighty minas from the estate of our uncle, yet such are his insolence and profligacy, that he sent my cousin Cephisodotus to Corinth as a servile attendant on his brother Harmodius ; and adds to his other injuries this cruel reproach, that he wears ragged clothes and coarse buskins : but is not this unjust, since it was his own violence which reduced the boy to poverty ?

On this point enough has been said : I now return to the narration from which I have thus digressed. Menexenus then, the son of Cephisophon, and cousin both to this young man and

to me, having a claim to an equal portion of the inheritance, began a prosecution against those who had perjured themselves in the former cause, and convicted Lycon, whom he first brought to justice, of having falsely sworn that our uncle appointed this Dicæogenes heir to his whole estate: when, therefore, this pretended heir was disappointed in his hopes of deluding you, he persuaded Menexenus, who was acting both for our interest and his own, to make a compromise, which, though I blush to tell it, his baseness compells me to disclose. What was their agreement? That Menexenus should receive a competent share of the effects on condition of his betraying us, and of releasing the other false witnesses, whom he had not yet convicted: thus, injured by our enemies and by our friends, we remained with silent indignation; but you shall hear the whole transaction from the mouth of witnesses. EVIDENCE. Nor did Menexenus lose the reward of his perfidy; for, when he had dismissed the persons accused, and given up our cause, he could not recover the promised bribe from his seducer, whose deceit he so highly resented, that he came over again to our side. We therefore, justly thinking that Dicæogenes had no right to any part of the inheritance, since his principal witness had been actually convicted of perjury, claimed the whole

estate as next of kin to the deceased: nor will it be difficult to prove the justice of our claim; for, since two wills had been produced, one of an ancient date, and the other more recent; since by the first, which Proxenus brought with him, our uncle made the defendant heir to a third part of his fortune, which will Dicæogenes himself prevailed upon the jury to set aside; and since the second, under which he claims the whole, had been proved invalid by the conviction of the perjured witnesses, who swore to its validity: since, I say, both wills had been shown to be forged, and no other testament existed, it was impossible for any man to claim the property as heir by appointment, but the sisters of the deceased, whose daughters we married, were entitled to it as heirs by birth.

These reasons induced us to sue for the whole as next of kin, and each of us claimed a share; but when we were on the point of taking the usual oaths on both sides, this Leochares put in a protestation, that the inheritance was not controvertible: to this protestation we took exceptions, and having begun to prosecute Leochares for perjury, we discontinued the former cause. After we had appeared in court, and urged the same arguments on which we have now insisted, and after Leochares had been very

loquacious in making his defence, the judges were of opinion that he was perjured; and as soon as this appeared by the number of pellets, which were taken out of the urns, it is needless to inform you what entreaties he used both to the court and to us, or what an advantage we might then have taken: but attend to the agreement which we made. Upon our consenting that the Archon should mix the pellets together without counting them, Dicæogenes undertook to surrender two thirds of the inheritance, and to resign them without any dispute to the sisters of the deceased; and for the full performance of this undertaking, Leochares was his surety, together with Mnesiptolemus the Plotian; all which my witnesses will prove. EVIDENCE. Although we had been thus injured by Leochares, and had it in our power, after he was convicted of perjury, to mark him with infamy, yet we consented that judgement should not be given, and were willing to drop the prosecution upon condition of recovering our inheritance: but after all this mildness and forbearance, we were deceived, judges, by these faithless men; for neither has Dicæogenes restored to us the two thirds of his estate, conformably to his agreement in court; nor will Leochares confess that he was bound for the performance of that agreement. Now, if these promises had

not been made before five hundred jurymen and a croud of hearers, one cannot tell how far this denial might have availed him ; but, to shew how falsely they speak, I will call some witnesses who were present both when Dicæogenes disclaimed two thirds of the succession, and undertook to restore them undisputed to the sisters of our uncle, and when Leóchares engaged, that he should punctually perform what he had undertaken : to confirm his evidence, judges, we intreat you, if any of you were then in court, to recollect what passed, and, if our allegations are true, to give us the benefit of your testimony ; for, if Dicæogenes speaks the truth, what advantage did we reap from gaining the cause, or what inconvenience did he sustain by losing it ? If, as he asserts, he only disclaimed the two thirds, without agreeing to restore them unencumbered, what has he lost by relinquishing his present claim to an estate, the value of which he has received ? For he was not in possession of the two third parts, even before we succeeded in our suit, but had either sold or mortgaged them ; it was his duty, however, to return the money to the purchasers, and to give us back our share of the land ; since it was with a view to this, that we, not relying singly upon his own engagement, insisted upon his finding a surety. Yet, except two small

houses without the walls of the city, and about sixty acres of land in the Plain, we have received no part of our inheritance; nor did we care to eject the purchasers of the rest, lest we should involve ourselves in litigation; for when, by the advice of Dicæogenes, and on his promise not to oppose our title, we turned Micio out of a bath, which he had purchased, he brought an action against us and recovered forty minas. This loss, judges, we incurred through the perfidy of Dicæogenes; for we, not imagining that he would recede from an engagement so solemnly made, assured the court, that we would suffer any evil, if Dicæogenes should warrant the bath to Micio; not that we depended on his own word, but we could not conceive, that he would betray the sureties, who had undertaken for him; yet this very man, who disavowed all pretensions to these two thirds, and even now admits his disavowal, had the baseness, when he was vouched by Micio, to acknowledge his warranty; whilst I, unhappy man, who had not recovered a particle of my share, was condemned to pay forty minas for having ousted a fair purchaser, and left the court oppressed by the insults of this Dicæogenes. To prove the transaction, I shall call my witnesses. EVIDENCE.

Thus have we been injured, judges, by this

man; whilst Leochares, who was bound for him, and has been the cause of all our misfortunes, is confident enough to deny what has been proved against him; because his undertaking was not entered in the register of the court: now, judges, as we were then in great haste, we had time to enter part only of what had been agreed on, and took care to provide faithful witnesses of all the rest; but these men have a convenient subterfuge: what is advantageous to them, they allow to be valid, although it be not written, but deny the validity of what may be prejudicial to their interests, unless it be in writing; nor am I surprised, that they refuse to perform their verbal promises, since they will not even act conformably to their written agreements. That we speak truly, an undeniable proof shall be produced: Dicæogenes gave my sister in marriage with a portion of forty minas to Protarchides of Potamos; but, instead of paying her fortune in money, he gave her husband a house which belonged to him in Ceramicus; now she had the same right with my mother to a share of this estate; when Dicæogenes, therefore, had resigned to the women two thirds of the inheritance, Leochares told Protarchides in what manner he had become a surety, and promised in writing to give him his wife's allotment, if he would surrender to

him the house which he had taken instead of the portion: Protarchides, whose evidence you shall now hear, consented; but Leochaeres took possession of his house, and never gave him any part of the allotment. EVIDENCE.

As to the repairs of the bath, and the expenses of building, Dicæogenes has already said, and will probably say again, that we have not reimbursed him, according to our engagement, for the sum which he expended on that account; for which reason he cannot satisfy his creditors, nor give us the shares to which we are entitled. To answer this, I must inform you, that, when we compelled him in open court to disclaim this part of the inheritance, we permitted him, by the advice of the jury, to retain the profits of the estate, which he had enjoyed so long, by way of compensation, for his expenses in repairs, and for his publick charges; and some time after, not by compulsion, but of our own free will, we gave him a house in the city, which we separated from our own estate, and added to his third part. This he had as an additional recompense for the materials which he had bought for his building; and he sold the house to Philonicus for fifty minas: nor did we make him this present as a reward of his probity, but as a proof that our own relations, how dishonest soever, are not undervalued by us for

the sake of lucre; and even before, when it was in our power to take ample revenge of him by depriving him of all his possessions, we would not act with the rigour of justice, but were contented with obtaining a decree for part of our own property; whilst he, when he had procured an unjust advantage over us, plundered us with all possible violence, and now strives to ruin us, as if we were not his kinsmen, but his inveterate foes.

We will now produce a striking instance of our candour, and of his knavery. When, in the month of December, judges, the prosecution against Leochares was carried on with firmness, both he and Dicæogenes entreated me to postpone the trial, and refer all matters in dispute to arbitration; to which proposal, as if we had sustained only a slight injury, we consented; and four arbitrators were chosen, two by us, and as many by them: we then swore, in their presence, that we would abide by their award; and they told us, that they would settle our controversy, if possible, without being sworn; but that, if they found it impossible to agree, they would severally declare upon oath what they thought the merits of the case. After they had interrogated us for a long time, and enquired minutely into the whole transaction, Diotimus and Melanopus, the two arbitra-

tors, whom we had brought, expressed their readiness to make their award, either upon oath or otherwise, according to their opinion of the truth from the testimony of both parties; but the other two, whom Leochares had chosen, refused to join in any award at all; though one of them, Diopithes, was a kinsman of Leochares, and an enemy to me on account of some former disputes, and his companion Demaratus was a brother of that Mnesiptolemus, whom I mentioned before, as one of the sureties for Dicæogenes: these two declined giving any opinion, although they had obliged us to swear that we would submit to their decision.

EVIDENCE.

It is abominable then, that Leochares should request you to pronounce a sentence in his favour, which his own relation Diopithes refused to pronounce; and how can you, judges, with propriety decree for this man, when even his friends have virtually decreed against him? For all these reasons I intreat you, unless you think my request inconsistent with justice, to decide this cause against Leochares.

As for Dicæogenes, he deserves neither your compassion as an indigent and unfortunate man, nor your indulgence as a benefactor in any degree to the state: I shall convince you, judges, that neither of these characters belongs to him;

shall prove him to be both a wealthy and a profligate citizen, and shall produce instances of his base conduct towards his friends, his kinsmen, and the publick. First, though he took from us an estate, from which he annually received eighty minas, and though he enjoyed the profits of it for ten years, yet he is neither in possession of the money, nor will declare in what manner he has employed it. It is also worthy of your consideration, that, when he presided over the games of his tribe at the feast of Bacchus, he obtained only the fourth prize, and was the last of all in the theatrical exhibitions and the Pyrrhick dances: these were the only offices that he has served, and these too by compulsion; and see how liberally he behaved with so large an income! Let me add, that, in a time of the greatest publick calamity, when so many citizens furnished vessels of war, he would not equip a single galley at his own expense, nor even joined with another; whilst others, whose entire fortune was not equal to his yearly rents, bore that expensive office with alacrity: he ought to have remembered, that it was not his father who gave him his estate; but you, judges, who established it by your decree; so that, even if he had not been a citizen, gratitude should have prompted him to consult the welfare of the city.

Again ; when contributions were continually brought by all who loved their country, to support the war and provide for the safety of the state, nothing came from Dicæogenes : when Lechæum indeed was taken, and when he was pressed by others to contribute, he promised publicly, that he would give three minas, a sum less than that which Cleonymus the Cretan voluntarily offered : yet even this promise he never performed ; but his name was hung up on the statues of the *Eponymi*, with an inscription, asserting, to his eternal dishonour, that he had not paid the contribution, which he promised in publick, for his country's service. Who now can wonder, judges, that he deceived me, a private individual, when he so notoriously deluded you all in your common assembly ? Of this transaction you shall now hear the proofs.

EVIDENCE.

Such and so splendid have been the services which Dicæogenes, possessed of so large a fortune, has performed for the city ! You perceive, too, in what manner he conducts himself towards his relations ; some of whom he has deprived, as far as he was able, of their property ; others he has basely neglected, and forced, through the want of mere necessaries, to enter into the service of some foreign power. All Athens saw his mother sitting in the temple of

Illithyia, and heard her accuse him of a crime, which I blush to relate, but which he blushed not to commit. As to his friends, he has now incurred the violent hatred of Melas the Egyptian, who had been fond of him from his early youth, by refusing to pay him a sum of money, which he had borrowed : his other companions he has either defrauded of sums, which they lent him, or has failed to perform his promise of giving them part of his plunder, if he succeeded in his cause.

Yet our ancestors, judges, who first acquired this estate, and left it to their descendants, conducted all the publick games, contributed liberally towards the expence of the war, and continually had the command of gallies, which they equipped : of these noble acts the presents, with which they were able, from what remained of their fortune after their necessary charges, to decorate the temples, are no less undeniable proofs, than they are lasting monuments of their virtue ; for they dedicated to Bacchus the tripods, which they won by their magnificence in their games ; they gave new ornaments to the temple of the Pythian Apollo ; and adorned the shrine of the goddess in the citadel, where they offered the first fruits of their estate, with a great number, if we consider that they were only private men, of statues both in brass and stone.

They died fighting resolutely in defence of their country; for Dicæogenes, the father of my grandfather Menexenus, perished in the battle of Eleufis, where he had a command; his son Menexenus fell at the head of the Olyfian legion in Spartolus; and his son, my uncle, loft his life at Cnidos, where he commanded the Parhalian galley.

His estate, O Dicæogenes, thou haft unjustly feized, and shamefully wafted; and having converted it into money, haft the affurance to complain of poverty. How haft thou fpent that money? Not for the ufe of the ftate, or of your friends; fince it is apparent, that no part of it has been employed for thofe purpofes; not in breeding fine horfes; for thou never waft in poffeffion of a horfe worth more than three minas: not in chariots; for, with fo many farms, and fo great a fortune, thou never hadft a fingle carriage even drawn by mules: nor haft thou redeemed any citizen from captivity; nor haft thou conveyed to the citadel thofe ftatues, which Menexenus had ordered to be made for the price of three talents, but was prevented by his death from confecrating in the temple; and, through thy avarice, they lie to this day in the fhop of the ftatuary: thus haft thou prefumed to claim an eftate, to which thou hadft no colour of right, and haft not reftored to the gods

the statues, which were truly their own. On what ground, Dicæogenes, canst thou ask the jury to give a sentence in thy favour? Is it because thou hast frequently served the publick offices; expended large sums of money to make the city more respectable, and greatly benefited the state by contributing bountifully towards supporting the war? Nothing of this sort can be alledged with truth. Is it because thou art a valiant foldier? But thou never once couldst be persuaded to serve in so violent and so formidable a war, in which even the Olynthians and the islanders lose their lives with eagerness, since they fight for this country; while thou, who art a citizen, wouldst never take arms for the city.

Perhaps, the dignity of thy ancestors, who slew the tyrant, imboldens thee to triumph over us: as for them, indeed, I honour and applaud them, but cannot think that a spark of their virtue animates thy bosom; for thou hast preferred the plunder of our inheritance to the glory of being their descendant, and wouldst rather be called the son of Dicæogenes than of Harmodius; not regarding the right of being entertained in the Prytaneum, nor setting any value on the precedence and immunities which the posterity of those heroes enjoy: yet it was

not for noble birth, that Harmonius and Aristogiton were so transcendently honoured, but for their valour and probity; of which thou, Dicæogenes, hast not the smallest share.

Missing Page

SPEECH THE FIFTH.

ON THE ESTATE OF PHILOCTEMON.

THE ARGUMENT.

PHILOCTEMON, one of Euctemon's sons, having adopted Chærestratus, the son of Phanostratus and his younger sister, deposited his will with Chæreas, his elder sister's husband, and died in the lifetime of his father. When he also was dead, Chærestratus claimed the inheritance according to law; and, when one Androcles protested that the estate could not be the subject of litigation, because Euctemon had left two legitimate sons, Antidorus and another, the friends of Chærestratus excepted to the protestation, averring that both Antidorus and his brother were illegitimate, and relying upon the law of Solon, which expressly declared, that bastards, whether male or female, should not inherit: the clients of Isæus, therefore, maintain the affirmative in two issues; in one, that Philoctemon adopted Chærestratus; in another, that Antidorus was a bastard.

SPEECH THE FIFTH.

Chærestratus against Androcles.

THAT I am intimately connected, judges, with Phanostratus, and with Chærestratus, who now appears before you, many of you, I believe, perfectly know: but those, who are unacquainted with our friendship, shall hear how strong a proof I gave of it; for, when Menestratus failed to Sicily with the naval command, I, who had before been on a similar expedition, foresaw all the perils which ensued; yet, at the request of these dear friends, I was the companion both of their voyage and of their misfortunes: now I should act most absurdly, if I voluntarily exposed myself to such imminent danger, because I was connected with them and valued that connection, but should now decline the task of speaking for them, that you may decide their cause agreeably to your oaths, and that they may obtain complete justice from your verdict. I intreat you therefore to indulge me with your favour, and to hear me with benevolence; for this is no trifling contest, but a question of the highest importance to the happiness of my friends.

Philoctemon of Cephisia, the son of Eucemon, had so great a regard for Chærestratus, that he adopted him by will and appointed him successor to his estate: when, therefore, Chærestratus claimed his succession in due form (at which time any Athenian had a right to set up an adverse claim in a direct course of law, and, if he could prove a better title, would have enjoyed the fortune) this Androcles, instead of bringing a fair and regular action, entered a protestation that the estate was not liable to controversy, intending to prevent my friend from supporting his claim, and you from determining who is the rightful heir of Philoctemon: thus in a single cause and by a single decree he hopes to obtrude upon the deceased two fictitious brothers, who bear no relation to him; to possess the property himself without a competitor; to dispose as he pleases of Philoctemon's sister; and to destroy the efficacy of his testament.

Of the many audacious falsities, which the protestation of Androcles contains, that concerning the will shall be first confuted; and I will prove not only that Philoctemon made a will, but that he appointed Chærestratus to be his son and successor; for, as he had no children by his wife, as the war was carried on with violence, and as his frequent expeditions both by

land and sea exposed him to continual danger, he resolved, lest his inheritance should become desolate for want of an heir, to nominate one by his will: his two brothers had both died childless; and one of his sisters, who had been many years married to Chæreas, had borne him no male child; but his other sister, the wife of my friend Phanostratus, had two sons, the elder of whom, Chæresthratus, he adopted as his own, and declared in his testament, that, if his wife was not delivered of a son, Chæresthratus should have his estate. This will, which he deposited with his brother-in-law Chæreas, shall now be read to you; and then attend to the witnesses who were present at the execution of it. THE WILL. EVIDENCE.

You have heard the proof of his will, and have observed how his estate is given by it to my client: now to prove that he had a power of making such a testamentary disposition, the law itself shall be produced, from which you will easily perceive the justice of the whole transaction. THE LAW.

This law, judges, which equally binds us all, permits every man, who has no legitimate children, to dispose by will of his property, unless his faculties be impaired by age, or by disorder, or by any of the infirmities which are specified in the law: now that Philoctemon had not one

of these infirmities, I will in few words demonstrate ; for what man can have the hardiness to impeach the understanding of so excellent a citizen, who, while he lived, received the highest honours from you, was advanced to the most important offices, and died in battle against your enemies ? That he made his will then in his perfect senses, as the law permitted him, you have heard clearly proved ; so that on this head the false assertions of Androcles are apparent ; but, as he has protested also that Antidorus was the legitimate son of Euctemon, this too I will show to be untrue.

Euctemon, judges, had no other sons than Philoctemon, Ergamenes, and Hegemon ; he had also two daughters ; and their mother was the daughter of Mixiades the Cephisian : these are known to all his acquaintance, to those of the same ward, and to many of the same borough, as they will presently give in evidence ; but, that he ever married another woman, of whom Antidorus was born, no man can pretend to know or ever to have heard in the lifetime of Euctemon. The relations of the family must have known all that passed, and we may suppose them to be the most credible witnesses : call them, therefore, first ; and then read the depositions of others. WITNESSES and DEPOSITIONS.

Yet further : I will convince you that our

opponents themselves have in fact given the same evidence; for, at the examination before the Archon, when they deposited the stated sum, and contended that these young men were the legitimate sons of Euctemon, being asked by us, who was their mother, and whose daughter she was, they were unable to inform us, though we protested against their allegation, and the Archon pressed them to answer, as the law required. Could they, indeed, be allowed, judges, to contend and protest that the sons were legitimate, when they could not declare, who their mother was, nor mention any one of her relations? Then, to be sure, they delayed the suit by pretending, that she was a Lemnian; but, when they came afterwards to be re-examined, they said, before any question was proposed, that the mother of the young men was Callippe, the daughter of Pistozenus; thinking it sufficient to pronounce a name, which they had probably invented: when we asked who this Pistozenus was, and whether he was living or not, they answered, that he died fighting in Sicily, and left his only daughter to the care of Euctemon, to whom, while he was her guardian as well as husband, she bore these two sons. Almost audacious assertion, and palpable fiction! as I will prove to you by their very answers at the examination; for two and fifty years have

elapsed from the Archonship of Arimnestus, when our armament embarked for Sicily, and the elder of these youths, whom they pretend to be the sons of Euctemon and Callippe, has not passed his twentieth year: if then we deduct his age from the time since the Sicilian expedition, there remain above thirty years; so that Callippe could neither be in ward at that age, nor could she have remained so long unmarried and childless, but must have had a husband either by the authority of a guardian, or by an adjudication of the court. Besides, she must have been known by the friends of Euctemon, and by his servants, if she really was married to him and lived so many years in his house; for it is not enough to produce mere names at an examination, but it is necessary to show that the persons actually existed, and to prove their existence by the testimony of those who were connected with them: yet when we challenged them to summon any of Euctemon's friends, who knew that such a woman as Callippe lived with him or was his ward, and urged them to decide the controversy by the evidence of such domesticks as were still alive, or to deliver up to us any of their slaves, who might be compelled to disclose what they remembered of the transaction, they would neither give up their own slaves to be questioned, nor take ours for

that purpose. Officer, read their answer, together with our depositions and challenges.

ANSWER. DEPOSITIONS. CHALLENGES.

So decisive a mode of proof have they declined; but it shall be my care to inform you, who this woman and her children are, and to describe to you those, who have declared them to be legitimate, and are striving to procure for them the inheritance of Euctemon. It may perhaps be unpleasant to Phanosthratus, to hear the misfortunes of his father-in-law opened to the court; but it is expedient to say a few words concerning them, that, when you are apprized of the truth, you may be more able to decide according to justice.

Euctemon lived six and ninety years, the greater part of which time he passed with apparent prosperity; for he had an affluent fortune, a wife and hopeful children, with other ingredients of happiness; but in his advanced age he met with no small calamity, which threw his whole family into disorder, consumed a great part of his estate, and occasioned a dissension between him and his most intimate friends: what was the source of this evil, and in what manner it happened, I will explain as concisely as I am able.

He had a freedwoman, who inhabited a house of his in the Piræus, where she kept se-

veral female slaves, and among them one named Alce, whom, I fancy, most of you know : after this Alce had been bought, she lived many years in that house, but, when she grew older, was removed from it. While she continued there, one Dio, a freedman, was connected with her, and by him, as she herself declared, she became the mother of these two young men, whom Dio educated as his own ; till, having committed a great misdemeanor, and fearing a prosecution, he stole away to Sicyon : after which Euctemon gave Alce the care of his house in Ceramicus by the little gate, where they sell wine. When she was sent thither, judges, she was the occasion of many and great disorders ; for Euctemon, going frequently to collect his rents, passed a considerable part of his time in that house, and even sometimes sat at table with the woman, having left his wife and children in the house, which he usually inhabited ; and, though his family were highly displeased, yet he persisted in his course, and spent his whole time with Alce, having either by poison, or by disorder ; or by some other infirmity, so totally lost his understanding, that he was persuaded by her to offer the elder of her two boys to the men of his ward under his own name ; but when Philoctemon opposed his admission, and the members of the ward refused to admit him, or to ac-

cept of the victim usually given on such occasions, the old man, being enraged against his son, and desiring to distress him, made a proposal of marriage to the sister of Democrates the Aphidnean, with an intent to educate and adopt her children as his own, if Philoctemon would not consent to have the other admitted : upon which his relations, knowing that he could have no more children at his age, but that supposititious sons might be produced, which would raise still more violent animosities, advised Philoctemon, judges, to give his consent that his father should introduce the boy to the ward, as he desired, and allot a farm for his support. In this advice Philoctemon acquiesced, heartily ashamed of his father's dotage, but not knowing how else to secure himself from the calamity which threatened him : when therefore an agreement was made to that effect, and the boy was admitted as a member of the ward, Euctemon dropped his project of marrying, by which he showed that his design had not been formed with a view to having children of his own, but for the sake of admitting the bastard of his mistress ; for what occasion, judges, had he to marry, if, as they insist, he had sons born in wedlock with a citizen of Athens ? Who could have prevented his admitting them to their freedom ? Why should he introduce them upon

certain conditions, when the law had ordained, that all children, begotten in matrimony, should have an equal share of their paternal fortune? Or why, lastly, did he admit into his ward the elder only of the boys, and pay no regard to the younger, whom from the day of his birth he had not mentioned either to Philoctemon whilst he was alive, or to any of his friends? These are the men, Androcles, whom you have averrèd, in your protestation, to be the legitimate sons of Euctemon. Now, to prove the truth of my assertions, let the depositions be read. DEPOSITIONS.

After this transaction Philoctemon was slain at Chios in a naval engagement, in which he had the command of a galley; and Euctemon declared in open court, that he was desirous of recording his agreement with his son; at the same time Phanostratus, accompanied by his kinsman Chæreas, was on the point of sailing with the fleet, which Timotheus conducted; and the vessel, which he commanded, was just weighing anchor at Munichia, when Euctemon went thither attended by some friends, and, having written a will declaratory of the conditions on which he adopted this Antidorus, he deposited the instrument with his relation Pythodorus of Cephisia. Now, that he acted in this manner, not as if he had legitimate chil-

dren, both Androcles has proved, and the fact itself sufficiently demonstrates; for no man bequeaths any thing as a legacy to his own sons, since the law gives every son the possessions of his father, and permits not any man, who has children begotten in wedlock, to dispose of his estate by will.

When the writing had lain almost two years with Pythodorus, and Chæreas in the mean time was dead, these associates, being subservient to the inclinations of Alce, perceiving the property of Euctemon to be continually wasted, and concluding from his dotage, that a fair opportunity presented itself, began their attack in concert; and first they prevailed with Euctemon to revoke his will, as disadvantageous to the boys; because his daughters only and their children would inherit his visible property, but, if he sold part of his land and left the sum which he received for it, the adopted son and his friends would take firm possession of the money. The old man, persuaded by this reasoning, demanded his will of Pythodorus, and instituted a suit for the production of it: when Pythodorus, therefore, appeared before the Archon, Euctemon declared that he wished to cancel his will; and his kinsman assured both him, and Phanosttratus who was present, that he did not oppose his intention, but, as Chæreas,

who had joined with Euctemon in depositing the will, had left a daughter, he thought it proper to defer the revocation of it till she could give her consent, and have a husband or guardian who might confirm her act: as the Archon was of the same opinion, Euctemon, having made a declaration before the magistrate and his assessors, in the hearing of many witnesses whom he called, that his testament was no longer valid, left the court.

Soon after this they proceeded to those acts, with a view to which they had persuaded him to rescind his will: they sold the Athmonian estate for seventy-five minas to Antiphanes; the Serangian bath to Aristolochus for thirty; and the house in the city which had been mortgaged for four and forty minas, they conveyed to the hierophant: next they disposed of his goats, together with the goatherd, for thirteen minas; and two carriages to be drawn by mules, one for eight minas, and the other for five and a half; not omitting any of the slaves, who worked for his benefit. The sum, which they collected from the sale of these effects very soon after the death of Philoctemon, amounted to more than three talents. I will now call witnesses, who will swear to the truth of all my assertions, EVIDENCE.

Thus were these possessions aliened: the destruction of the rest they soon meditated; and contrived for that purpose the most infamous artifice, to which you should particularly attend; for, perceiving that Euctemon was entirely superannuated, and could not even rise from his bed, they deliberated how they might after his death effectually secure his property to themselves. What was the result of this deliberation? They announced the two boys to the Archon as having been adopted by the two deceased sons of Euctemon; and, feigning themselves to be their guardians, petitioned the magistrate that the lands and houses of those orphans might be exposed to auction, so that some part of their estate might be let, and some of it pledged as a security for the rents; that the latter might be distinguished by columns and inscriptions, and that they themselves, while Euctemon was alive, might receive the profits. As soon therefore as the courts were full, the magistrate caused the auction to be proclaimed, and a party of these conspirators began to bid for the lots; when some, who were present, ran to inform our friends of the contrivance, and they, coming without delay, apprized the judges of the whole transaction: upon this the court would not suffer the houses to be let;

but, if the scheme had not been detected, the whole estate would have been lost. Call those who were witnesses of this affair. **EVIDENCE.** Before these men were connected with this artful woman, and, in conjunction with her, conspired against Euctemon, he possessed so large an estate, that both he and his son Philoctemon filled the most expensive offices for your service, and were so far from alienating their ancient possessions, that they were continually making new purchases with the money, which they had saved; but, when Philoctemon died, such was the disorder which prevailed, that not half of his former estate remained, and the rents were all extinguished. Nor were they satisfied, judges, with consuming this property; but, as soon as Euctemon was dead, and his body was lying in the house, they were audacious enough to detain the servants with them, that his death might not be mentioned to his daughters, or to his widow, or to any of his relations; while they, together with Alce, removed all the money and furniture to the next house, which had been rented, and was then inhabited, by one of their crew, this very Antidorus; nor, when the widow and daughters heard of Euctemon's death from others, and came to the door, would they suffer them to enter; but insisted, that it was not their business to bury the de-

ceased. Thus were they prevented from going in till just before sun-set; and when they entered, they found the body, which had lain, as the servants declared, unburied for two days, and perceived that all the goods had been removed by these confederates. The women, therefore, employed themselves, as their duty required, in preparing the corse for burial, while my clients were showing to some friends, who accompanied them, the miserable condition of the house; and asked the servants, in the presence of the associates, to what place the effects had been carried: when they answered, that Androcles and the rest had conveyed them to the house next adjoining. Phanostrotus and his companions thought it necessary to make a legal enquiry into the robbery, and demanded the slaves, who had carried the goods, to be delivered up to them; but the contrivers of the mischief would not consent to this act of justice. In confirmation of my narrative, read these depositions, and this inventory of the goods which were removed.

DEPOSITIONS.
INVENTORY. Thus having conveyed so many valuable effects from the house, having received the money arising from the sale of so large an estate, and having divided among themselves the rents which became due in so long an interval, they imagine that they shall be masters of

the whole ; and to such a height of confidence have they advanced, though they durst not meet us in a direct form of action, that they have averred the legitimacy of our two opponents by way of protestation ; not considering, that they speak both falsely and inconsistently with their previous conduct ; since, when they appeared before the Archon, they styled one of them the adopted son of Philoctemon, and the other of Ergamenes, whereas they now protest them both to be the sons of Euctemon : yet had they been lawfully begotten, and had they been adopted, as they first alledged, not even then could they have been called the sons of Euctemon ; for the law forbids a son by adoption to return into the family, from which he was emancipated, unless he leave a legitimate son of his own in the family which adopted him ; so that, even from their own behaviour, it is manifest that their evidence is false. If they had then completed their scheme of letting the houses, my clients would now be precluded from asserting their right ; but, as the judges declared that it was not their business to let them, these men have not ventured to dispute our title in a regular course of law, but have protested, with excessive audacity, that the very persons whose claim you rejected were lawful heirs to the estate. Observe too the assurance of Andro-

cles, who first claimed for himself the daughter of Euctemon, as if she had been the heiress, and insisted on his right to a fifth part of the property, as if it had been liable to litigation, yet has now averred that Euctemon left a legitimate son. ~~Has~~ Has he not by this clearly convicted himself of having given false evidence? He certainly has; for had a son of Euctemon begotten in wedlock been living, his daughter could not have been heiress, nor could the estate have been open to controversy: to prove that he first made such a claim, these depositions shall be read to you. EVIDENCE.

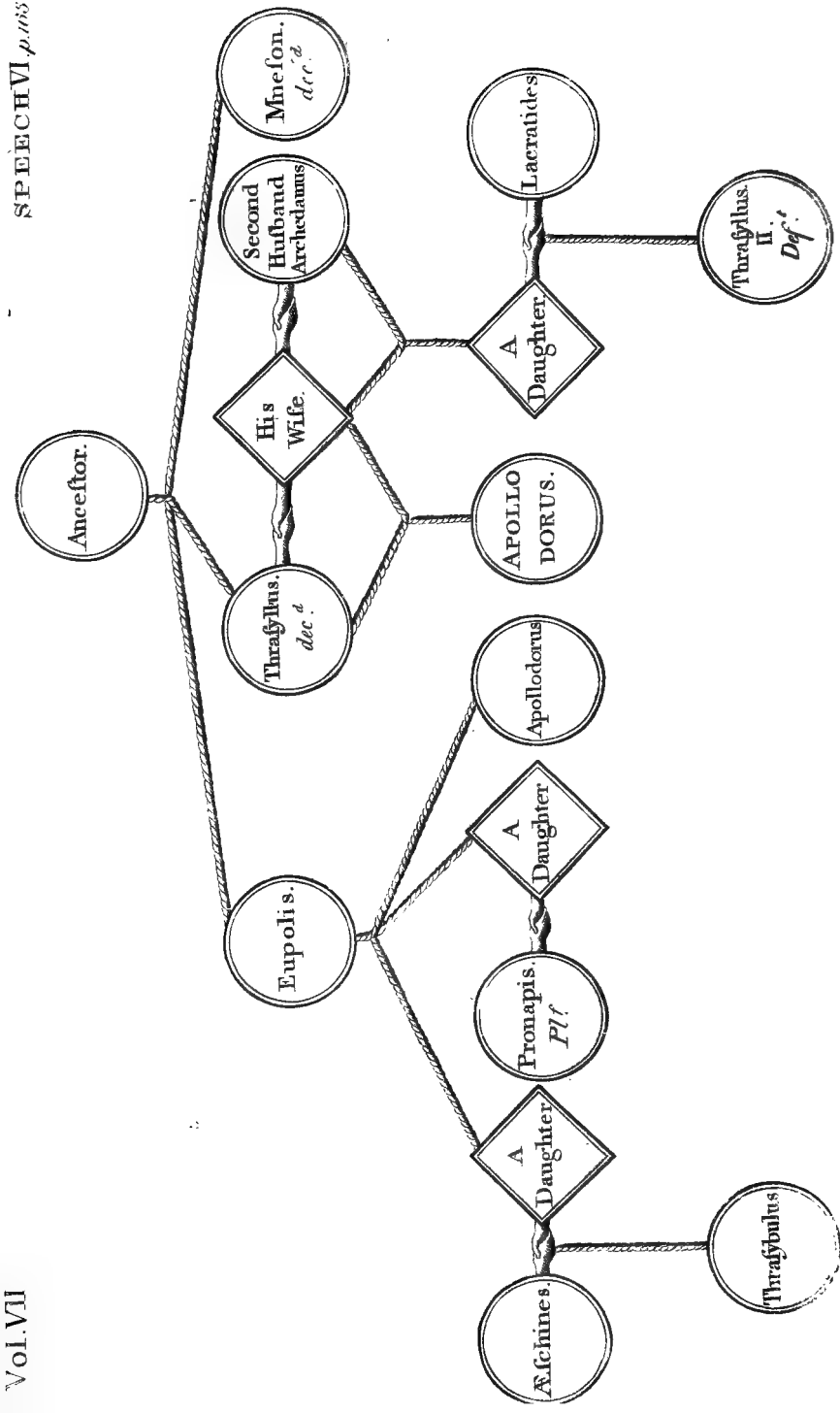
The very reverse, therefore, has now happened of that which the law ordains; for it is enacted, that, from the Archonship of Eacled, no male or female bastard shall have any right of consanguinity either in civil or sacred matters: but Androcles and Antidorus think themselves entitled to strip the daughters of Euctemon and their sons of their inheritance, and to seize the possessions both of him and of Philoctemon; while this woman, who impaired Euctemon's understanding, and has possessed herself of so vast a sum, has insolence enough, through their persuasion, not only to undervalue her late master's friends, but even to treat the whole city with contempt. A single circumstance, which you shall hear, will easily convince you

of her lawless impudence; but first let the law be read. THE LAW.

This ordinance, judges, have you so piously and solemnly made, thinking it of high importance to the state, that Ceres and Proserpine, as well as all the other deities, should be adored with reverence; but the mother of my adversaries, who was confessedly a slave, whose whole life had been marked with infamy, and who consequently ought neither to have entered the temple, nor to have seen any thing that it contained, had the boldness, when divine rites were performed to these goddesses, to accompany the procession, to walk into the temple, and to inspect what it was unlawful for her to see: the decree of the senate concerning her proves the truth of my allegations. THE DECREE.

You must then consider, judges, whether a son of this woman should succeed to the estate of Philoctemon, and perform holy ceremonies at his tomb, or the son of his own sister, whom he had himself adopted; and whether the sister of Philoctemon, who was married to Chæreas, and is now a widow, should be at their disposal, either to be given in marriage to any man, whom they chuse, or to grow old in a state of widowhood, or whether she ought not, as a legitimate daughter, to be disposed of by yourselves as your wisdom shall direct: on this point

must your judgment now be given, for to this dangerous crisis are my clients reduced by the protestation. Should these confederates fail of success in the present contest, and should the estate be declared open to controversy, they may again bring the question before you in another action: yet, if a will was made by Philoctemon, which he had no power to make, his power ought now to have been disputed; but, if he undeniably had such a right, and the fact only of his having devised his property be denied, they should not have opposed our claim by this collateral mode of litigation, but should have brought the matter in due form to a regular issue. At present, what clearer method can be found of proving this man's testimony to be false, than by interrogating him thus? Whence, Androcles, do you know, that Philoctemon neither made a will nor adopted Chærestratus? For it is reasonable, judges, that a man should give evidence of those transactions of which he was eye witness, or he may on some occasions even repeat what he has heard from others. You have expressly averred, that Philoctemon never made a will and died childless; but how is it possible, judges, for this to be known by him? It is the same, as if he were to aver, that he knows what all of you are doing every day. This at least, audacious as he is, he will not af-



fert, that he was perpetually in Philoctemon's company, and knew every action of his life; for of all men living, the deceased abhorred him most, both for his general improbity, and because he alone of all his relations conspired with Alce to embezzle the goods of Euctemon, and acted in concert with her in the manner before described.

Above all it must necessarily move our indignation, that they should so impudently abuse the name of Euctemon, the grandfather of Chærestatus; for if, as they alledge, Philoctemon had no power to appoint an heir, and if the estate was Euctemon's, is it not more just that his possessions should be inherited by his daughters, who were indisputably legitimate, and by us, who are their sons, than by men who bear no relation to him, and who are confuted not only by our arguments, but also by the conduct of these provident guardians? This, judges, I supplicate and adjure you particularly to remember, as I before related it; and as you have it in evidence: that Androcles first declared himself their guardian, as if they were the legitimate sons of Euctemon, and then claimed for his own use the property of their supposed father: now, in the name of the immortal gods, is it not abominable, judges, that, if these men be legitimate, their guardian should claim for him-

self both their fortune and the daughter of the deceased Euctemon, as if she was the object of a judicial contest, and that, if they are illegitimate, he should now make an averment of their legitimacy? These are plain contradictions: so that the falsity of his testimony has been proved not only by witnesses, but also by his own behaviour.

As to Chærestatus, no man gives him assistance by protesting that the estate is not open to litigation; but he desires to proceed in the regular course; while this fellow prevents all others from asserting their claims, and, having averred that Euctemon left children begotten in matrimony, imagines that you are to be deluded with impertinent digressions, believing that, if he wholly omits the material heads of argument, or very slightly touches them, but pours forth his abuse against us with a loud voice, and exclaims that my clients are rich, whilst he is indigent, it will instantly appear to you, that the children were legitimate. Now, my clients, judges, have spent a greater part of their fortune in the service of the state, than for their own advantage: seven times has Phanostatus equipped a galley; he has served all the publick offices, and obtained many honours for the magnificence of his shows. Chærestatus too, when he was very young, furnished a vessel at his own

expence; since which time he has conducted the theatrical entertainments, and presided over the exercises at the festival of Torches. Both of them have brought their contributions among the citizens of the richest class; hitherto they have served together, and now the younger of the brothers conducts the chorus in the tragedies, has been enrolled among the three hundred, and contributes his share to defray the publick charges; so that my friends ought not to be envied; but these associates themselves, I swear by Jupiter and Apollo, will be far juster objects of envy, if they obtain what they have no right to claim; for, should the fortune of Philoctemon be decreed to Chærestatus, he will dispense it liberally for your benefit; and, as he has hitherto done, or even with greater alacrity, will sustain every burden, which you shall impose upon him; but should these men be masters of such an estate, they will begin by dissipating it, and end with claiming again the property of some other person. I therefore entreat you, judges, lest you should be deceived by these confederates, to pay a scrupulous attention to their protestation, concerning which you are now to decide; and command them to make their defence consistent with that writing, as we have opened our charge in conformity to it: they have there averred, that Philoctemon

neither aliened nor devised his estate, which averment has been proved false ; for we have shown that he both made a will and disposed of his fortune, as those, who were present at the transaction, have testified. What else have they asserted ? That Philoctemon died without children—yet how can a man be said to have died childless, who had adopted his nephew as his son, to whom the law gives his inheritance as regularly as if he were an immediate descendant ? And it is expressly ordained, that, if a man having a son by adoption, has afterwards another child, both of them shall equally inherit his possessions. Let him demonstrate, therefore, the legitimacy of these children, as each of you can demonstrate his own : for this is not proved by mentioning the mother's name, but by declaring the truth, by producing the relations, and those who know that she was married to Euctemon ; by examining the members of the same borough and ward, if they have at any time heard, or can say from their own knowledge, that he was at any publick expense on her account ; by informing you where she was buried, where her monument stands, and where her children, who survived her, still perform sacred rites ; by showing, lastly, who saw such rites performed by Euctemon, and who, either among the servants or among the citizens

in general, knows any of these transactions. All this would be a proof, but mere invective is none ; and, if you compel my antagonist, judges, to prove the very facts, which he has avowed to be true, you will make a pious decree according to the laws, and my clients will obtain substantial justice.

SPEECH THE SIXTH.

ON THE ESTATE OF APOLLODORUS,

THE ARGUMENT.

THERE were three brothers, Eupolis, Thrasyllus, and Mneson ; the youngest of whom died without issue: the second left a son named APOLLODORUS. Eupolis, the surviving brother, was appointed guardian to his nephew, and had two daughters living, one of whom was married to Æschines, the other to Pronapis, the complainant in this cause.

The widow of Thrasyllus married Archedamus, who, perceiving that Apollodorus, his wife's son, was injured by his guardian, assisted him in applying to a court of justice, and obtained redress for him in two actions. This Archedamus had a daughter by the mother of Apollodorus, and that daughter, who married Lacratides, had a son, whom Apollodorus, on the death of his own son, adopted in his lifetime, and caused to be registered in the books of his kindred and ward by the name of Thrasyllus.

APOLLODORUS died; and Pronapis, in right of his wife, claimed the estate of the deceased, alledging that Thrasyllus was not entered in the register according to the true intent of his uncle, but that the adoption was a mere fiction and artifice.

The cause is, in the language of the Ancients, conjectural; or, in the dialect of our bar, it is an issue, “Whether Thrasyllus was really adopted by Apollodorus, or not.”

SPEECH THE SIXTH.

Thrasyllus against Pronapis.

I DID imagine, judges, that such adoptions as were made by a man in his perfect senses, who had conducted his adopted son to the shrine of his ancestors, had presented him to his kinsmen, had inserted his name in their common register, and had performed in person all the usual ceremonies, were not to be controverted in a court of justice; but that, if a man, apprehensive of his approaching end, had bequeathed his estate to another, had sealed his testament, and committed it to the care of a friend, the validity of his will might afterwards be justly disputed; since by the former mode of alienation the intent of the party is openly manifested, and the whole transaction made valid by the law, while the intention of a testator, being more secretly and obscurely expressed, is liable to suspicion; whence many have contended against the claimants under a will, that the instrument itself was forged and void: but I now perceive this distinction to be of little avail; for, though my adoption was a fact of general notoriety, yet the daughter of Eupolis with her husband and

their advocates come to contest my right to the possessions of Apollodorus.

Now had I observed, that you were better pleased with the oblique form of a protestation than with a direct course of proceeding, I could have produced witnesses to prove that my right was incontestable ; because I am the son of the deceased by a regular adoption ; but as I am sensible that the true merits of the cause cannot be known by this method, I come to inform you of the whole transaction, and shall thus preclude them from the power of imputing to me an unwillingness to meet them on the fairest ground : I will demonstrate then, not only that the many injuries, which Apollodorus had sustained from his nearest relations, prevented him from leaving his fortune to them, but that he legally and justly adopted me, who am his nephew, and the son of his greatest benefactor.

I entreat you all, judges, to indulge me with a benevolent hearing ; and, if I convince you, that these associates have most audaciously claimed an estate to which they have no colour of title, assist me in obtaining justice : I will speak as concisely as I am able, in relating the whole affair from the beginning of it.

Eupolis, judges, Thrasyllus, and Mneson, had the same father and mother ; and their patrimony, which they divided equally among them-

selves, was so considerable, that each of them was appointed by you to fill the most expensive offices : two of these brothers perished nearly at the same time ; Mneson died in the city, unmarried and childless ; and Thrasyllus, whose son Apollodorus afterwards adopted me, fell in the Sicilian expedition, in which he had been elected to command one of our galleys. The surviving brother, Eupolis, seized for his own use no small part of the inheritance : he took for himself, under the pretence of a legacy, the whole of Mneson's property, one half of which belonged to Apollodorus ; and so faithful was he in his guardianship, that he was condemned to refund three talents, of which he had defrauded his nephew ; for my grandfather Archedamus, who had married the mother of Apollodorus, and was grieved to see him stripped of all his fortune, took both my grandmother and him to his house, where he gave him an education, as if he had been his own son, and, when he was adult, assisted him in claiming a moiety of Mneson's estate, and all the effects of which this careful trustee had deprived him. Thus, having obtained a decree for him in two suits, he recovered his whole patrimony ; on which account Apollodorus retained a violent enmity against Eupolis, as long as he lived, whilst a firm friendship subsisted, as it ought,

between him and Archedamus: but from his subsequent conduct we may draw the most certain conclusion, that Apollodorus was desirous of rewarding his benefactors for the advantages which they had procured him; for, when my grandfather had the misfortune to be made captive by the enemy, Apollodorus contributed largely towards the payment of his ransom, and even gave a hostage for him, till he was able to raise the whole sum; after which, when Archedamus was reduced from affluence to urgent necessity, this truly grateful man undertook the management of his affairs, giving him a competence out of his own fortune. Yet more; when he was going with the army to Corinth, he left his estate by will to his half-sister, whose son I am, and gave her in marriage to Lacratides, who has since been appointed hierophant: such were his kindness and gratitude towards us, who had originally preserved him from ruin. Now that my assertions are true, and that Eupolis was actually cast in two actions, one for his dishonest guardianship, and the other for a moiety of Mneson's property, in both which causes my grandfather was the adviser and advocate of Apollodorus, who by our means recovered his possessions, and afterwards requited the obligation with such liberality, I will prove by the

clearest evidence: call the witnesses hither.
WITNESSES.

Such then and so great were the benefits, which we had conferred on him; but such was his hatred of Eupolis, who had attempted to rob him of so large a fortune, that there was no possibility of a reconciliation between them, nor can it be alledged that their connection was ever restored: of their unalterable antipathy there cannot be a clearer proof, than that Eupolis, who was descended from the same common ancestor with Apollodorus, and knew him to be a wealthy man, offered him neither of his two daughters in marriage; yet such alliances have a natural power to appease the animosities, not of relations only, but of any indifferent men, when they intrust each other with the dearest pledges of their affection: whether Eupolis, therefore, was to blame for not offering his daughter, or Apollodorus for not accepting her, this fact alone proves the continuance of their dissension.

What has already been said concerning their disagreement, will, I think, be sufficient; for I am persuaded, that many of the oldest among you recollect their disputes and litigation; since the importance of the causes, and the two decrees which Archedamus obtained against Eu-

polis, gave celebrity to the affair : but I request you, judges, to hear with attention the proofs that he adopted me in his lifetime and in person, and that he appointed me successor to his estate, having inscribed my name in the records of his family, and in the publick register of his ward.

Apollodorus had a son, whom he both educated and cherished, as it became him ; and whom he hoped to leave heir to his fortune ; but the boy dying of a severe illness in the month of December in the last year, his father, depressed by so cruel a misfortune, and despairing at his age of having another child, called to his remembrance that family, from which in his youth he had received a signal obligation ; and, going to my mother, his half-sister, for whom he had the tenderest regard, he declared his intention to adopt me, and requested her to resign me to him as his son : she granted his request ; and so eager was he to execute his resolution, that he carried me instantly to his own house, and intrusted the whole management of it to my care ; considering, that he was no longer capable of superintending all his affairs in person, and that I grew continually more and more able to transact them. At the festival of the Thargelia, therefore, he conducted me to the altars among those of the same family and

ward : now it is a rule with them, that whoever introduces to them either his own son, or a son by adoption, must swear by the sacred rites, that the person introduced was born of an Athenian citizen in lawful marriage ; when this oath has been taken, the other members of the society determine by ballot whether he shall be admitted ; and, if they decide in his favour, he may then, but not before, have his name inscribed in the register : with such exactness are their ordinances and customs observed. This then being their law, the whole assembly, not doubting the veracity of Apollodorus, to whom they had administered the usual oath, and knowing that I was the son of his sister, voted unanimously for the enrollment of my name ; and thus was I adopted by him in his lifetime, as the law permitted him to adopt me, and registered by the name of Thrasyllus, the son of Apollodorus : read these depositions, which prove the truth of what I have related. DEPOSITIONS.

I supposed therefore, judges, that you would readily give credit to the witnesses, who have sworn, and to his relations, whose behaviour has manifestly declared, that Apollodorus performed the ceremony of my adoption conformably to law ; for Eupolis left two daughters ; one who was married to Pronapis, and is a claim-

ant in this cause; and another, the wife of Æschines the Lufian, who died leaving a son, then of full age, named Thraſybulus: now there is a law, that, if a brother by the ſame father die childleſs and inteſtate, his effects ſhall be divided equally between his ſurviving ſiſter, and the ſon of another ſiſter, who died before him; nor were my opponents ignorant of this law, as their very conduct has manifested; for, when the ſon of Eupolis was dead without children, Thraſybulus took a moiety of his eſtate, which may be fairly eſtimated at five talents. Thus the law gives the ſiſter and the ſiſter's ſon an equal ſhare of their father's and their brother's fortune; but, when a couſin dies, or any kinfman in a remoter degree, the male relations are called to the ſucceſſion before the female; for it is enacted, that males and the children of males, if any be living, ſhall be preferred, although they are leſs nearly related to the deceaſed. The wife, therefore, of Pronapis ought not to have claimed even a part of this inheritance, but Thraſybulus would have contended for the whole, if he had not thought my adoption valid: whereas he neither at the beginning diſputed my title, nor at any time ſince has claimed the fortune of Apollodorus, but confeſſes that I was legally appointed his ſucceſſor; whiſt her advocates have attained

such a height of impudence, that they have presumed to claim the whole estate. Take the laws, which my adversaries have violated, and read them to the court. **FIRST LAW.** By this law the surviving sister and her sister's son are entitled to an equal share of their brother's property. Now read the other, by which females are excluded in the succession to the fortune of their cousins. **SECOND LAW.** Read this also which enacts, that, if there be no first nor second cousins on the part of the father, those on the mother's part shall succeed to the estate according to the rules there expressed. **THIRD LAW.**

Such being the law, this male relation has not even claimed a part of the inheritance, while the husband of a female has contended in her right for the whole: thus imagining, that mere audacity will avail them, they push it to any length in this cause, and alledge, as a reason for their exorbitant demand, that Thrasylbulus was adopted into the house of Hippolochides, and emancipated from his own; which I allow to be true, but insist that it is nothing to the purpose; for how was he less entitled to claim this estate? It was not in right of his father Æschines, but of his mother, that he succeeded to half the fortune of Apollodorus, the son of Eupolis; and by the same right he would have

made a just claim to the present succession, as he was preferred to any female claimant, had he not been convinced, that my adoption was legal and regular ; but Thraſybulus is not ſo daring : now a title to a maternal eſtate is not loſt by emancipation, but every man continues to have the ſame mother, whether he remain in his father's houſe, or be emancipated ; ſo that he was not deprived of his ſucceſſion to his maternal uncle Apollodorus, but received an equal portion with the ſurviving daughter of Eupolis, as the witneſſes, whom I ſhall now call, will prove.

EVIDENCE.

It is apparent then, that not only the men of the ſame family and ward bore testimony to my adoption, but that Thraſybulus himſelf has in fact acknowledged, by not claiming the fortune, that he believed the act of Apollodorus to be conformable to law, and conſequently valid ; for, if that had not been his opinion, he would never have waived his right to ſo large an inheritance : of this tranſaction I can produce other witneſſes ; for, before my return from the Pythian games, Apollodorus apprized his fellow-burgeſſes, that he had appointed me his heir, and had enrolled me among the members of his ward ; informing them at the ſame time, that he had committed his eſtate to my care, and requeſting them, if any accident ſhould befall

him, to enter me in the publick register by the name of Thrasyllus the son of Apollodorus, and by no other name. When they heard this declaration (though the friends of Pronapis complained in their assembly, and disputed the validity of my adoption, yet) the burgesſes, from their own knowledge of the fact, took the accustomed oath, and inserted my name in their register, as Apollodorus had enjoined them, being fully perswaded that my adoption was perfectly legal: call the witnesses to these facts.

WITNESSES. So clear, judges, is the evidence of my adoption, an inveterate enmity having subsisted between the deceased and the family of Eupolis, and the strictest friendship having been maintained between him and us, to whom also he was nearly related: but, had he neither detested them nor loved our family, he would never, as I hope easily to convince you, have left his possessions to my antagonists; for all they, who think their end approaching, look forward with a prudent care that their houses may not become desolate, but that there may be some person to attend their funeral rites, and to perform the legal ceremonies at their tombs; if, therefore, they have no children, yet they leave heirs by appointment; nor is this merely the custom of private men, but it is ordained by the publick and common laws, which command the

Archon to provide that families be not extinguished ; now Apollodorus was perfectly sensible, that, if he were to leave his estate to these men, he should occasion the desertion of his house. Why so ? Because he had seen these two sisters inherit the possessions of Apollodorus their brother, without appointing a successor to him, although they had sons of their own, whom they might have appointed ; he had seen their husbands sell the lands and all the effects which they had inherited, to the amount of five talents, which money they divided among themselves, and he had observed the shameful and deplorable desolation of the family. Since then he saw that the memory of a brother was so little revered, how could he have expected, even had friendship subsisted between them, to be treated with due veneration, when he was a cousin only, and not a brother ? He could not hope it. Now that they appointed no heir to support the family of that Apollodorus, yet are in possession of his fortune, and have wasted an estate, which was known to supply the expense of equipping galleys, the witnesses, who shall next be called, will give ample proof. EVIDENCE.

If such therefore were their dispositions, and so violent was their enmity to Apollodorus, by whom I was adopted, how could he have acted

more wisely than as he did act? Should he have taken a child from any of his friends, and left his property to him? Yet it would have been uncertain even to the parents of that child, by reason of his tender age, whether he would be a virtuous or a worthless man; but of my good qualities he had received a sufficient specimen; for he well knew, how affectionately I had behaved to my father and mother, how attentively to my friends, how prudently I managed my own affairs, how far removed I had been in my magistracy from injustice or corruption: of all this he was fully convinced, when he committed his possessions to my care; nor was I a stranger to him, but his sister's son, nor were the benefits inconsiderable, which we had conferred on him; nor was I lowminded and unambitious enough to aliene his property, as my opponents have aliened the fortune of their brother, but was willing and eager, after his example, to furnish and command your ships, to lead your armies, to conduct your entertainments, to perform whatever you should order. If then I was his kinsman, his friend, and his benefactor, both of an exalted mind and of approved virtue, who can doubt that his adoption of me was the act of a prudent and a grateful man? Even in this very year I have performed one of those duties, which Apollodorus himself

would have applauded: I presided over the exercises in the Promethean games with liberality and magnificence, as the whole tribe know, and as many of them will now testify. WITNESSES.

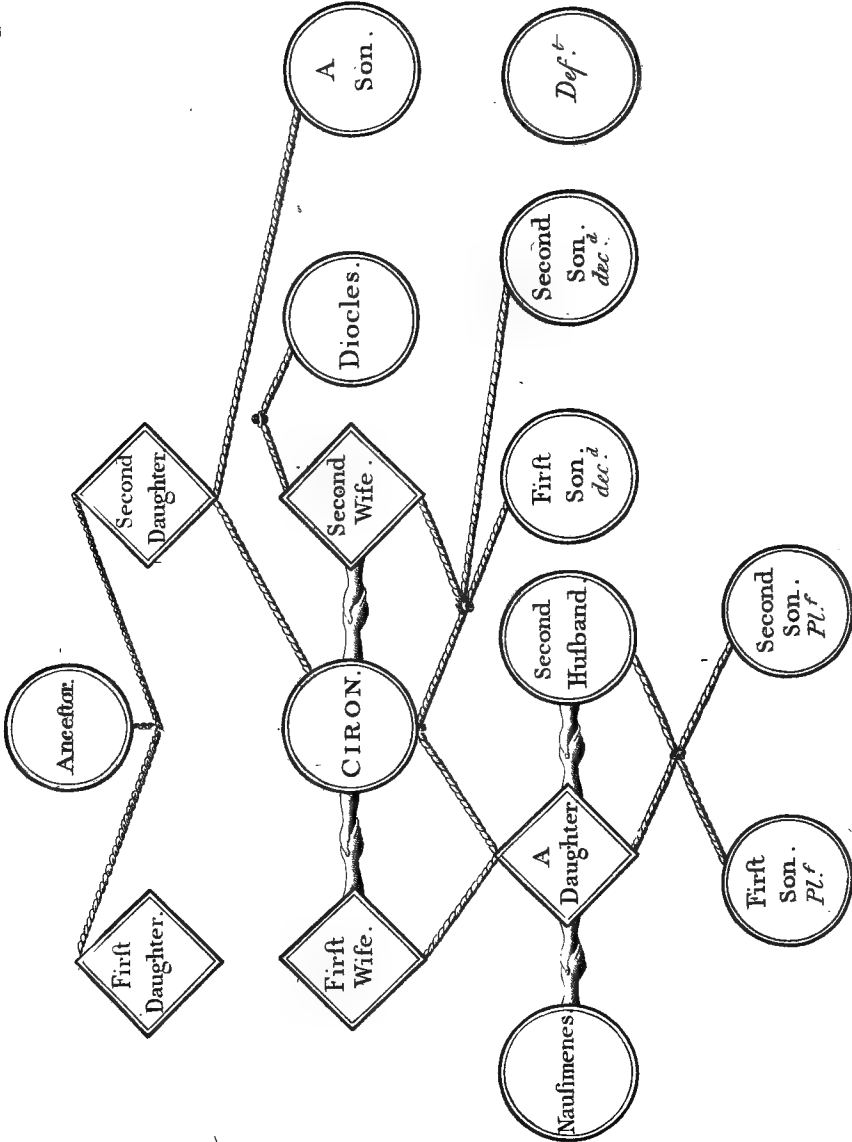
These, judges, are the lawful and reasonable grounds of our present claim: we therefore entreat you to assist us in supporting it, for the sake both of Apollodorus and of his father, whom you will find, if you reflect upon their conduct, to have been no useless citizens, but inspired with all possible zeal to promote your interest; for his father Thrasyllus not only filled every other expensive office, but continued, as long as he lived, to command a galley, which was not built by contribution, as many vessels are now made, but at his own expense; nor was he second only in the command, but stood alone; nor did he intermit his duty for two years, as he might have done, but performed it constantly; and not with negligence or in haste, but with the most splendid preparations; for which noble conduct you approved and honoured him; and, remembering his laudable actions, would not suffer his son to be stripped of his property, but compelled his false guardian to restore it. Nor was Apollodorus himself like this Pronapis, who, to defraud the publick, pretended that his fortune was small, but taking his rank among those of the equestrian order,

he sustained the charges of the highest magistracies ; not endeavouring by violence to take the property of others, and contriving that you should reap no advantage from it, but openly declaring the full amount of his estate, and bearing with alacrity whatever burden you imposed : thus he strove to live with elegance on his own income, without injuring any man ; thinking it incumbent on him to be moderate in his private expenses, that he might be able to dedicate the remainder of his fortune to the service of the publick. With this overplus what office did he not completely fill ? What sum was he not the first to contribute ? In what part of his duty was he deficient ? He obtained the prize in the youthful games, which he conducted ; and yonder tripod remains a monument of his liberality on that occasion. What are the duties of a virtuous citizen ? To preserve his own fortune ; not, like dissolute and abandoned men, to attack the property of others ; and, if the state has need of supplies, to contribute among the first, without concealing any part of his possessions. Such then was Apollodorus ; and you will make but a just return for his ardour in serving you, if you establish his adoption of me according to his clear intent : nor will you find even me, as far as my youth has qualified me for your service, either a bad or an idle citizen ;

for I have borne arms in all your expeditions, and continue to obey the commands of my country, as men of my age should obey them. For the sake, therefore, of Apollodorus and his father, as well as of me and my family, consider our cause with attention; especially as our adversaries have never furnished a single galley, but have dissipated and reduced to nothing an estate of five talents: whereas we have already filled your most chargeable offices, and will again fill them with eagerness, if you effectuate the intention of my uncle, and give me the estate, which he appointed me to inherit. That I may not seem tedious in expatiating longer on these facts, I will descend, as soon as I have succinctly recapitulated to you the several points, on which we rest our respective claims.

As my own mother was the sister of Apollodorus, as an intimate friendship subsisted between us, never interrupted by any disagreement, I, whom he adopted as his son, when he was living and in his perfect senses, I, who was enrolled among those of the same family and ward with himself, demand the estate which he gave me, and desire that these men may not have it in their power to extinguish so illustrious a family: but what are the pretensions of Pronapis? He first took a moiety of the fortune, which had been left by his wife's brother, and

now he claims this inheritance, though others are more nearly related to the deceased than his wife can pretend to be: yet he has neither appointed a son to supply the place of his brother, but has suffered his family to become extinct, nor would he have acted otherwise with regard to my uncle; and he makes this claim, though Apollodorus had so great an aversion to him, and a reconciliation never afterwards took place between them. This, judges, you will consider; and will also recollect, that I am the nephew of the deceased, and that the wife of Pronapis is only his cousin: that she has inherited two estates, whilst I succeed to this alone as a son by adoption; that she lastly was not well inclined to him, whose property we claim, but that I and my father were his real benefactors. Thus reflecting and reasoning with yourselves, give a sentence agreeable to justice: it would be superfluous to add more; for I am persuaded, that no part of my argument has escaped your attention.



SPEECH THE SEVENTH,
ON THE ESTATE OF CIRON.

THE ARGUMENT.

CIRON being dead without leaving a son, his nephew entered upon his estate ; and the clients of Isæus brought an action to recover it, insisting that they had the better title as grandsons of the deceased by his legitimate daughter: there are two questions in the cause, an issue of fact, whether the complainants were lawfully descended from Ciron or not ; and an issue in law, whether a daughter's or a brother's son has more right to the property of an intestate. The writer of the Greek argument to this speech appears to have mistaken the law of Athens, which will be more fully explained in the commentary.

SPEECH THE SEVENTH.

The Grandsons of Ciron against his Nephew.

IT is impossible, judges, to suppress our just indignation, when men are not only bold enough to claim the property of others, but even hope by their sophisms to refine away the sound rules of law, as our adversaries are now attempting to do; for, although my grandfather Ciron died not childless, but left me and my brother, the sons of his legitimate daughter, yet these men have both claimed his estate, as his next of kin, and insult us with asserting that we are not his grandsons, and that he never had a daughter in his life; to this audacity have they been incited by their sordid love of gain, and allured by the value of Ciron's estate, which they violently seized, and now unjustly possess; being absurd enough to alledge that he died in indigence, yet contending at the same time that they have a right to his fortune. Now I consider myself as contending in this cause, not with the nominal party to the suit, but with Diocles of Phlya, whose mad violence has procured him the name of Crestes; for it was he, who first instigated

my opponent to give us this trouble, with an intent to deprive us of our succession to the property of our grandfather, and has thus exposed us to danger, that he may not be compelled to restore the goods which he has embezzled, if he can persuade you by his false allegations to pronounce your decree in his favour. These being their machinations, it is necessary for you to be informed of the whole transaction, that, when you are fully apprized of every circumstance, you may decide the cause from your perfect knowledge of it; and, if you have ever attended to any other cause, hear this, I intreat you, with attention: justice indeed requires it; for in the many suits with which Athens abounds, no man will be found to have invaded the possessions of another with more impudence and a greater contempt of decency than these confederates. It is no easy task, judges, for one, wholly void of experience in courts, to enter into a contest of so great importance against the premeditated quibbles of subtle speakers, and against witnesses prepared to violate the truth; yet I am not without hopes of being restored to my right by your sentence, and of speaking so far at least with tolerable propriety as to support my just demand, unless some such misfortune should befall me as I cannot even now help fearing: I supplicate you, therefore,

judges, to hear me with candour, and, if you think me injured, to redress the injury which I have sustained.

First, then, I will convince you, that my mother was the legitimate daughter of Ciron, and will prove by hearsay evidence what happened a long time ago, and by living witnesses what it is still possible for them to remember: to this I will add a number of circumstances, which are often more decisive than the testimony of fallible men; and when I have evinced the truth of this point beyond a doubt, I will demonstrate, that we have a juster claim than our adversaries to the estate of the deceased. I will begin my narrative from that part of the case, whence they also began their argument.

My grandfather Ciron, judges, married his first cousin, the daughter of his mother's sister, who bore my mother, and died three years after marriage. Ciron, having this only daughter, took for his second wife the sister of Diocles, by whom he had two sons: with her and her children my mother was educated, and, when she attained a proper age, was given by her father in marriage to Nausimenes of Cholargia, with a fortune of twenty-five minas, together with clothes and ornaments of gold. Three or four years after this, Nausimenes died of a violent disorder, leaving no children by

my mother, whom Ciron received again into his family (but without her entire portion, as her husband had been in distress) and gave her to my father with a fortune of a thousand drachmas. That all these transactions really passed, as I relate them, and fully disprove the false pretences on which our adversaries now insist, I discovered a method of evincing with the utmost clearness; for, whether my mother was, or was not, the daughter of Ciron, whether she made part of his family or not, whether he solemnized her two nuptials, and what fortune he gave with her to each of her husbands, all this must necessarily be known to his servants of both sexes: desiring therefore in addition to the evidence, which I shall adduce, to confirm these facts by an extorted confession, that you might give the greater credit to such witnesses as had previously exhibited a proof of their veracity, I proposed to my antagonists, that the male and female slaves should be questioned on the rack concerning their knowledge of these occurrences; but this very Diocles, who will presently intreat you to believe his witnesses, declined so easy a mode of discovering the truth. If then his refusal to accept my offer, which must be imputed to his fear of so decisive an investigation, be clearly proved, what remains to be thought of his witnesses? No-

thing, in my opinion, but that they are fore-
sworn : in proof of this fact, read first the depo-
sition, which I have brought. DEPOSITION.

Now you are all, I believe, persuaded, that an
inquisition by torture, both in publick and pri-
vate causes, is the best and surest mode of in-
vestigating truth ; nor, when both free men and
slaves are present, and it is expedient to obtain a
discovery of facts, is it your custom to examine
the free men, but to rack the slaves, and thus
to extort a true relation of all that has hap-
pened : in this respect you think and act wisely,
judges ; for you well know, that many persons
examined in the usual form have given evi-
dence indubitably false ; but of all those, who
have been exposed to torture, none have ever
been convicted of falsehood : and will this most
audacious of men request you to believe his
artful pretences, and his witnesses, who swear
against truth, when he declines a mode of proof
so exact and conclusive ? Our conduct is widely
different ; and, as we first proposed to discover
the whole transaction by the means of torture,
to which proposal we have proved that they
would not consent, we think it reasonable, that
our witnesses should be credited. Read next
these depositions, which prove my mother's le-
gitimacy. DEPOSITIONS.

Whom can we suppose acquainted with what

happened so long ago? Those, no doubt, who were intimate with my grandfather: their testimony then has been repeated by many who heard them assert the truth of it. Who must unavoidably know, that my mother was given in marriage? Those, who betrothed her, and those who were present at the time of the affiance: to this point, therefore, we have adduced the evidence of persons, who were connected both with my father and with Naufimenes. Who must be conscious that she was bred in the house of Ciron, and that she was his legitimate daughter? My adversaries themselves have shown this to be true, by declining the discovery proposed; so that you cannot justly disbelieve our witnesses, but have great reason to suspect the credibility of theirs.

To these arguments may be added many circumstances, which prove that our mother was the daughter of Ciron; for, as it became a man to treat the sons of his own daughter, he never made a sacrifice without us; but, whether he solemnized the greater festivals or the less, we were always present and always partook of them; nor were we invited to these only, but he constantly carried us into the country to the Dionysian feasts: with him we sat to view the games, and at his house we passed every holiday. Besides, he most assiduously paid his

adorations to Jupiter the Enricher, into whose temple he admitted no slave whatever, nor any freemen who were not of his family, but conducted the whole ceremony himself; yet even of this celebrity were we partakers, performing the holy rites together with him, and assisting him in the operations of the sacrifice: he then prayed the deity (as a grandfather would naturally pray) to grant us good health and ample gains; nor, had he not believed us to be his daughter's children, and the only lineal descendants, whom he was to leave behind him, would he have shown us this parental affection, but would have taken for his companion, the man, who now pretends to be his nephew? The truth of all this must be accurately known by my grandfather's slaves, whom this man will not suffer to be interrogated on the rack; but the same facts were notorious also to some of his intimate friends, whose evidence shall now be produced: take their depositions, and read them to the court. DEPOSITIONS.

Nor from these transactions alone is it manifest, that our mother was the legitimate daughter of Ciron, but also from the conduct of our own father, and from the manner in which she herself was treated by the women of the same borough; for, when my father married her, he gave an entertainment, to which he invited

three of his acquaintance, besides his particular friends, and presented those of his ward with the nuptial victim, according to their institutions: after this the wives of his fellow-burgesses elected her, together with the wife of Diocles the Pithian, to lead the procession, and perform divine rites at the temple of Ceres; and my father, when we were born, introduced us to his ward, having previously sworn, as the law requires, that we were his sons by a citizen of Athens, whom he had legally espoused; nor did a single man of the ward, although many were present who scrupulously examine such matters, say a syllable against our admission, or entertain a doubt of his veracity. Now it cannot be imagined, that if our mother had been what these men falsely pretend, our father would have celebrated his connection with her by a nuptial feast and the usual sacrifice; he would rather have kept the whole affair secret; nor would the matrons of his ward have chosen her, with the wife of Diocles, to perform their sacred rites, and to preside over the solemnity, but would have given that respectable charge to another; nor would the members of the ward have received us, but would have objected to our admission, and justified their objection, had it not been allowed on all sides, that our mother was Ciron's legitimate daughter: the truth,

indeed, of this fact is now so apparent, and so many persons have a perfect knowledge of it, that it is no where disputed. Call up the witnesses, who will prove what I have last asserted.

EVIDENCE.

Yet further, judges ; that we are the acknowledged grandsons of Ciron, the behaviour of Diocles himself, after my grandfather's death, will clearly demonstrate ; for I went, accompanied by one of my friends, a cousin of my father, to bring the body to my own house, from which I intended to begin the funeral procession : Diocles was not within ; but, when I entered, and was directing the assistants, whom I had brought, to remove the corse, my grandfather's widow intreated me to begin the funeral from her house, offering to assist us in laying out and embalming the body ; she wept and supplicated, judges, till she prevailed ; and, meeting Diocles, I told him before witnesses, that, as his sister had requested me, the remains of Ciron should be carried to the place of burial from the house in which he died : to this he made no objection, but said that he had brought some things necessary for the funeral, and had given earnest for them ; he therefore exacted a promise from me to pay what they cost, and desired me to give him back the earnest, engaging to bring me to those who had received it of him : soon after

indeed he affected to insinuate, that Ciron died insolvent, though I had not then spoken a word about his fortune. Now if he had not known me to be the grandson of Ciron, he would never have made such an agreement with me, but would rather have addressed me thus.—What man are you? What concern have you with the burial? I know you not: come not within my doors. This he should then have said himself, which he has now suborned others to say: nothing however of the kind was even intimated by him, but he requested me to bring him the money on the next morning; and here, to prove the truth of this narrative, let the witnesses be called. EVIDENCE.

Nor was he alone silent on this head; but even the present claimant of the estate advanced nothing in opposition to my right, till he was instigated by this fellow to dispute it; for when I carried the money on the following day, Diocles refused to accept it, alledging that he had received it from my adversary: yet I was not prevented from joining in the funeral rites, but assisted at the whole ceremony; the expenses of which were not borne by my opponent, but were defrayed out of the money which Ciron left: now it would have become him, if the deceased had not been really my grandfather, to have thrust me out, to have expelled me, and to

have hindered me from conducting the burial in conjunction with them. Our situations in this respect were by no means similar; for I permitted him, as the nephew of my grandfather, to act in concert with me; but he should not have suffered me to join with him, if that had been true, which they now have the impudence to alledge. To such a degree, indeed, was Diocles confounded with the truth of my assertions, when in my funeral oration I accused him by name of an attempt to invade my property, and of inciting my antagonist to make this unjust claim, that he durst not even mutter a syllable against me, much less insinuate what he now so audaciously advances. Call those also who will prove this fact. WITNESSES.

What now, in the name of the gods, can induce us to believe what we hear asserted? Is it not the testimony of witnesses? I think it undeniable. How can their evidence be procured? Is it not by the fear of torture? Most assuredly. Why then should you give no credit to the allegations of my adversaries? Is it, because they declined so complete a proof? Yes, beyond a doubt. How is it possible, therefore, to demonstrate more clearly, that my mother was Ciron's legitimate daughter, than by producing hearsay evidence of what happened many years ago, and by giving you the positive testimony of

living witnesses, who know that she was educated in his house, was considered as his child, was twice betrothed by him, and twice given in marriage; and by showing moreover, that they refuse to examine the slaves who had a perfect knowledge of all these transactions? The whole of this I have given in evidence; and a more convincing proof, by all the deities of heaven, cannot be produced; but what has already been advanced seems fully sufficient to evince the justice of my demand.

I now proceed to give you entire conviction, that I have by law a greater right than my antagonist to the estate of Ciron; and it is apparent, I believe, to all of you, that those who are descended only from the same stock with the deceased are not more nearly related to him than those who are descended from himself: how, indeed, should it be so, when the first are his collateral kinsmen, and the others his lineal descendants? Since however they are daring enough to argue against the manifest reason of the thing, I will prove my point more diffusely by arguments drawn from the laws themselves: first, if my mother, the daughter of Ciron, were still living, if her father had died intestate, and if this man had been his brother instead of his nephew, he would have a power, indeed, to marry his daughter; but no man would have a

right to his estate, except her children, to whom the law would give it at the age of sixteen years; if, then, were she alive, he would not have been entitled to her fortune, but her sons would have been the lawful heirs, it is evident, that, as she died leaving children, they only, not these confederates, should succeed to her possessions. Nor does this law only confirm my title; but that concerning distressed parents establishes the point, for which I contend: had my grandfather been alive and in want of necessaries, the guilt of suffering him to continue in distress would have been imputed, not to our adversary, but to us; for the law enjoins us to support our parents, by whom are meant our fathers and mothers, grandfathers and grandmothers, and their fathers and mothers, if they are living; since, as they are the root and stock of the family, and as their descendants regularly succeed to their property, it is just and natural to maintain them, how little soever they have to leave. Can it then be thought reasonable, that, even if they had had nothing, we should have been liable to a prosecution for not supporting them, yet, if they leave a fortune, that these men, not we, should succeed to it? By no means.

I will begin, then, with the nearest of a man's collateral relations, and will call for your senti-

ments on the comparison between them and his lineal descendants ; for this method will easily convince you. Who was more nearly related to Ciron, his daughter or his brother? No doubt, his daughter ; for she descended immediately from him, but he only derived his descent from the same ancestor. Is the brother to be preferred in the order of succession, or the daughter's sons? Her sons indisputably ; for theirs is a direct descent, not a collateral relationship : since then we are so far nearer than a brother, we must have considerably a better claim than this man, who is only a nephew. But I fear, lest, by dwelling too long on a point which cannot fairly be disputed, I should tire your patience ; for all of you inherit the possessions of your fathers, grandfathers, and ancestors of a higher degree, by the uncontrovertible title of a lineal descent : the case is so clear, that I cannot believe there ever before was such a contest. I shall therefore conclude this part of my argument, with reading the law concerning the distresses of parents ; and shall then explain to you the motives which induced my opponents to harass me with this cause. THE LAW.

The property of Ciron, judges, consisted of a farm in Phlya well worth a talent, and two houses in the city, one of which, near the temple of Bacchus in the Marshes, was occupied by

a tenant, and might be sold for twenty minas ; the other, which he inhabited, was worth thirteen : he had, besides, some slaves who worked for his advantage, two female servants and a girl, together with utensils and household furniture, which, with the slaves, were worth as much as the house. His whole real estate may be valued at rather more than a talent and a half ; and he had no inconsiderable sum of money out at interest, from which he received a good annual income. Diocles and his sister had long projected to possess themselves of this fortune ; and, as soon as the two sons of Ciron were dead, he did not remove her from the old man (though she might then have borne children by another husband), fearing lest, if they were separated, he should dispose, as he ought to have done, of his possessions ; but persuaded her to continue with him, to pretend that she was enseint, and afterwards to alledge that she had miscarried ; for he knew, that, if Ciron could entertain hopes of having other children, he would not adopt either of us. As to my father, Diocles perpetually calumniated him, asserting that he had conspired to seize the property of Ciron : his next step was to defraud my grandfather of all his money, while he pretended to execute the office of receiving his interest, and managing his landed property. Thus

did he inveigle the old man by adulation and fervility, till he had all his effects within his grasp ; yet, well knowing that after Ciron's death I should have a just claim to his fortune, he did not prevent me from attending and conversing with him : he feared, I imagine, the consequences of my resentment at that time ; but he has now suborned a man to controvert my right to the succession, and, if he should be victorious, would allow him a small share of the plunder, while he means to secure the whole inheritance for himself ; yet, even to this very man, he did not at first acknowledge that Ciron left any estate, but asserted that he died in absolute indigence. As soon as my grandfather was dead, this Diocles made preparations for the funeral ; the expense of which, as you have heard from the witnesses, he required me to defray ; yet he afterwards refused to accept the money from me, on pretence that he had before received it from my opponent ; thus artfully intending to let it appear, that he himself, not I, was preparing to bury the deceased : when, therefore, he raised this controversy, both concerning Ciron's house and his other possessions, yet stupidly insisted, in the same moment, that he had left nothing at all, I thought it an improper time (and the opinion of my friends coincided with mine) to remove the body by force ;

but I assisted them, and attended the burial, the charges of which were supplied out of Ciron's estate. In this manner was I compelled to act; but, lest it should give them an advantage over me, if they could say with truth that I bore no part of the expense, I contributed my share, by the advice of a lawyer whom I consulted; and I performed sacred rites in the handsomest manner on the ninth day after the funeral, both that they might be prevented from the impiety of performing them, and might not seem to have expended the whole sum without my participation.

These, judges, are the transactions which relate to my cause, and these are the reasons which induced my enemies to attack me; but, were you perfectly acquainted with the shameless impudence of Diocles, you would not hesitate a moment in giving full credit to my whole narrative; for this wretch actually robbed his three half-sisters, who were left heiresses to their father, of the fine estate which makes him now so splendid, by pretending that he was the adopted son of their father, who, in reality, made no will, on purpose to exclude him: and when those who had married two of his sisters commenced a suit against him for their fortunes, he so malignantly entangled the husband of the eldest in the snares of perverted law, that he

caused him unjustly to be marked with infamy ; for which, though an action has been brought against him, he has not yet suffered the punishment he deserves ; and, having hired a slave to assassinate the husband of the second sister, he privately sent the assassin out of Attica, and accused the wife of the murder : then, intimidating her with his audaciousness, and compelling her to be silent, he obtained the guardianship of her son by the deceased, and stripped him of his property, keeping all the cultivated land in his own possession, and giving his ward by way of compensation a few stony fields. There are persons now present, who know this to be true : they are afraid, indeed, of Diocles ; but, perhaps they will be ready to give their evidence ; if not, I will produce others, who have an equal knowledge of the facts. First, however, call up those who are present. WITNESSES.

This man then, so profligate and so rapacious, who plundered the inheritance of his sisters, is not contented with that plunder ; but, because a just punishment has not yet overtaken him, he comes to deprive me also of my grandfather's estate, and having, as we are credibly informed, promised to give my adversary two minas out of the spoils, has exposed us to the danger of losing not our fortune only, but our country ; since, if he can deceive you into a belief, that

our mother was not a citizen of Athens, neither are we citizens ; for we were born after the archonship of Euclid. Is this litigation then, which his lies have set on foot against me, of trifling consequence? When my grandfather and father were alive, no charge whatever was brought against us, and our right was always considered as indisputable; but since their death, it will be some reproach to us, even if we are successful, that our title was ever disputed; a reproach, for which we may thank this execrable monster, this frantick Orestes, who, having been caught in adultery, and suffered the chastisement which he deserved, cannot even now desist from his crimes, as many, who well know his guilt, can testify.

The disposition and character of this fellow you have now partly heard, and shall hear it more at large when I have brought him to a trial in a prosecution, which I meditate: in the mean time, I supplicate and adjure you, permit him not to triumph over me, by stripping me of the fortune which my grandfather left; but, as far as each of you is able, give me assistance. Sufficient evidence has been laid before you: we have read our depositions, have opened to you what their slaves would infallibly have confessed, and have produced the laws themselves; by all which we have proved, that we

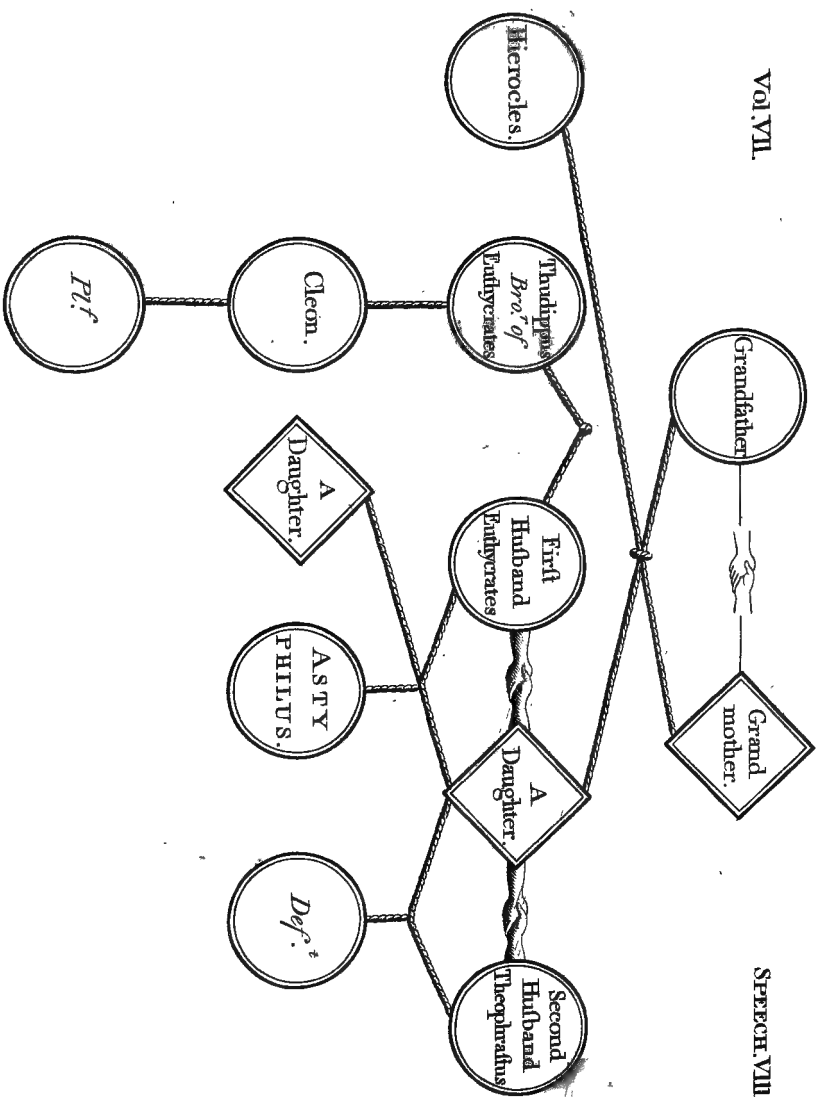
are the sons of Ciron's legitimate daughter, and consequently that his estate comes not to them, but to us, as his lineal descendants: calling therefore to your remembrance the oaths, by which you are bound to decide impartially, and the laws, which have been adduced, pronounce your sentence agreeably to justice. I see no occasion for a longer argument, as I believe you perfectly comprehend the whole case: let the officer, however, read this remaining deposition, that Diocles was taken in adultery. DEPOSITION.

SPEECH THE EIGHTH.

ON THE ESTATE OF ASTYPHILUS

THE ARGUMENT.

THE mother of the defendant in this cause had a son named ASTYPHILUS, by her first husband Euthykrates, whose nephew Cleon, after the death of Astyphilus, produced a will, by which Cleon's son was appointed to inherit the fortune of the deceased. The client of Isæus contends that the will of his half-brother was forged.



SPEECH THE EIGHTH.

The Son of Theophrastus against Cleon.

ASTYPHILUS, for whose estate we contend in this cause, and who was my half-brother, judges, by the same mother, died at Mitylene, whither he had sailed with the army; and that he never adopted a son, nor ever aliened his estate, or disposed of it by will, so that no man but myself has a right to his possessions, I shall endeavour to prove, agreeably to the oath which I have previously taken. This Cleon, my antagonist, was the first cousin to the deceased by his father's side, and it is his own son, whom he pretends that Astyphilus adopted: now Cleon's father was transferred by emancipation into another house, in which the whole crew of confederates are still resident, so that by law they bear no relation at all to the last possessor of this estate; but, as there could be no question on this head, they have produced a will, which I shall demonstrate, I think, to be forged, and are now striving, judges, to rob me of my brother's fortune. So confident, indeed, was Cleon (nor has his confidence, it seems, forsaken him)

of his exclusive title to the estate in dispute, that no sooner was Aftyphilus reported to be slain, while my father was confined by illness, and I was bearing arms abroad, than he rushed upon the land and claimed all my brother's effects in right of his son, not waiting, as he ought, for your determination in his favour; yet, when the remains of their cousin were brought to Athens, this fictitious son of his neither laid out the body nor buried it; but some of his friends and fellow-soldiers, considering the malady of my father, and my absence from the city, performed the last honours to the dead by assisting at his funeral rites, and led my sick father to the tomb, well knowing that his piety would be acceptable to the departed spirit; all which facts will be attested by the friends themselves who were present at these ceremonies. WITNESSES. That Aftyphilus was not interred by my opponent, has been given in evidence; nor will he himself deny it.

On my return then from the war, when I found that these associates were enjoying the fruits of my estate, and heard Cleon assert that the will, by which my brother adopted his son, had been left with Hierocles of Hephæstia, I went to Hierocles; not ignorant of his close connection with Cleon, but believing that he would hardly dare to speak falsely concerning

the deceased, especially as he was our uncle : yet, when I interrogated him on the subject, he answered (regardless of these considerations), that the will, which he had received from Astyphilus, was then in his possession ; and here, to prove that, he made this answer, let a deposition be read. DEPOSITION. Since, therefore, judges, none of my brother's friends were present at his death, and since his body was brought hither in my absence, it is necessary for me to convince you, by arguments drawn from their own assertions, that the will which they produce was fabricated by them, and that no will at all was made by Astyphilus ; for it is reasonable to suppose, that, if he had intended to leave an heir by adoption, he would have provided effectually for the security of his appointment, and taken care that his adopted son should not only possess his estate, but have access to the shrines of his ancestors, and perform the accustomed rites both to their shades and to his own : he must have been sensible too, that his intentions would take effect, not if he left a will unattested by his friends, but if he first convoked his relations ; next, those of the same borough and ward ; and lastly, as many of his intimate acquaintance as he could assemble, to attend the execution of so important an instrument ; for such precaution would have made it easy to refute any person

whatever, who might falsely claim the estate as legatee or as next of kin ; but nothing of this sort appears to have been done by Aftyphilus, who called together none of his friends to attest this pretended will, as I shall prove by the testimony of those friends themselves, unless any one of them has been suborned by Cleon, to declare that he was summoned. EVIDENCE.

Now Cleon will probably contend, that the evidence, just given by these witnesses of their entire ignorance that Aftyphilus ever made a will, is not conclusive ; but, in my apprehension, when the controversy turns upon the existence of a testament and the adoption of a son, the declarations of intimate friends, that they were not present at a transaction of so much consequence, ought to have far more weight than the allegations of mere strangers that they were present ; nor would Cleon himself, who was never remarked for simplicity, have neglected to convene any relations of Aftyphilus, who were in the city, or any other persons whom he knew to be at all connected with him, that they might attest a will, by which his own son was appointed heir to an estate ; for no man could have prevented the testator from disposing as he pleased of his own property, and such conduct would have removed the suspicion naturally arising from a will made in secret. Had

it been the design of Astyphilus, judges, to conceal from all men, that he had appointed the son of Cleon as his heir, or that he had left any testimony whatever, it must be supposed, that no witness at all would have subscribed his name; but, since they show you the names of witnesses, and those not of his acquaintance, but of any strangers whom he might happen to meet, it is not possible to conceive that the will can be genuine; for I cannot persuade myself that a man, who was going to nominate an heir, would summon any witnesses, but such as were to be partakers for the future of the same rights and the same communion with the person to be nominated: the deceased, however, could have no inducement to keep this transaction secret; for, as the law permits every one to dispose of his property according to his inclination, no man needs be ashamed to have such an instrument attested by any number of witnesses.

Now consider, judges, the time when Astyphilus made, as they assert, a testamentary disposition of his fortune; for they alledge, that he made it when he was at the point of sailing with the forces to Mitylene: by this account he must have had a singular foreknowledge of events; for he first served at Corinth, next in Thessaly, and during the whole Theban war; nor did he fail, wherever he heard that an army was raised,

to offer his service ; yet not on one of these occasions did he make a will, but deferred that ceremony till his last expedition to Mitylene, in which he perished. Can it seem credible then to any one among you, that, when Aftyphilus was formerly preparing for his other campaigns, and well knew the danger of them all, he left no directions whatever concerning his affairs, but that, when he was going to sail as a volunteer, in which character he was less exposed to peril, and must have entertained hopes of returning safe, he should then only write his will, and should lose his life in the adventure ? Can it be thought credible, that the contingency of events should have corresponded so exactly with his conduct ?

Without pursuing this argument farther, I will lay before you, judges, the strongest evidence that the allegations of my adversaries are false ; for I will prove that Aftyphilus bore the most violent enmity to Cleon ; so violent, that, rather than adopt the son of the man, whom he most detested, he would have ordered in his will, that none of his relations should have the least communication with him ; for Thudippus, Cleon's father, having quarrelled with Euthykrates, the father of Aftyphilus, concerning the division of his inheritance, so cruelly beat him, that he expired after languishing for a few days,

and his death was indubitably occasioned by the blows, which he had received : the truth of this can be proved by many of the Araphenians, who were at that time employed in cultivating the adjacent lands ; but it is not in my power to call any of them, who will positively accuse Thudippus of so atrocious a crime. As to Hierocles, who saw him strike his brother, I know his unwillingness to give any evidence tending to defeat the will which he now produces, and which, as he alledges, was left in his custody : let him be called, however, that he may either publicly confirm the truth of my assertion, or refuse to be examined. WITNESS.

This, I was perfectly sure, would be his answer ; for it is consistent with the conduct of a man, who wishes to persuade you that he knows to be true what in fact never happened, to decline giving evidence of what he really knows to be true : but I will call another witness, who is married to the grandmother of Astyphilus, and who will swear that Euthykrates, just before he died, commanded his friends to prevent any of Thudippus's family from approaching his tomb. EVIDENCE.

When Astyphilus, therefore, heard this fact related in his childhood, both by these witnesses and by his other kinsmen, he determined, as soon as his reason began to dawn, rather to pe-

rich than hold any conversation with Cleon; thinking it impious to converse with the son of that man, who was accused of having murdered his father: that his detestation of Cleon continued through his whole life, I will prove by the testimony of witnesses, who know the truth of my assertion. WITNESSES.

Had it not been for this reason, it must be imagined, that whenever Aftyphilus attended those feasts, which other Athenians usually attend, he would have gone to them, accompanied by no man but Cleon, who bore so near a relation to him, who belonged to the same borough, and whose son, above all, he was going to adopt; but the deposition of his fellow-burgessees, which the officer shall read, will prove that he never once appeared at the feasts in company with Cleon. DEPOSITION.

With no better claim to the affection of Aftyphilus, this man has the boldness to produce his own son as heir by appointment to the deceased; but why should Cleon alone be censured? Even Hierocles, our uncle, is audacious enough to come with a will which was never executed, and to assert that my brother committed it to his care. This conduct, Hierocles, is a sorry compensation for the many marks of kindness which you received when your fortune was more narrow than at present, as well from

Theophrastus my father, as from Astyphilus himself; for you are attempting to exclude me, who am the son of your benefactor and of your own sister, from that succession which the law has allotted me, to injure by your false assertion the memory of the dead, and, as far as you can prevail, to give his estate to the man whom he abhorred. Before the inheritance, judges, was even formally claimed, this very Hierocles, who was conscious that none but myself had a right to the estate of Astyphilus, applied successively to all the acquaintance of the deceased, offered the whole fortune to sale, and incited entire strangers to set up a title, alledging that he was the uncle of Astyphilus, and promising, if any one would give him a due share of the plunder, to produce a will of his nephew in favour of his confederate; yet now, when he has concluded his bargain with Cleon, and has contracted for a division of the spoils, he has the confidence to expect that his story will gain credit, and would be ready, I dare say, to forswear himself, if an oath were tendered to him by my adversaries: thus, for the sake of me, who am his kinsman, he would not even give in evidence what was strictly true; but, for the benefit of one who has not a shadow of right, he has not scrupled to propagate lies, and comes with a forged instrument to make you believe

what never happened, thinking the sordid arts of base lucre more beneficial to him, than his connection with me. I will now bring the testimony of a man, to whom he made an application, and promised, on condition that he might partake of the inheritance, to contrive a will in his favour. EVIDENCE.

What name then, judges, must be given to this man, who so readily, for his own profit, invents a falsity concerning the dead? This evidence too will abundantly convince you, that he produced this will, not without a compensation, but for a stipulated reward. Such are the artifices which they employ in concert against me, for each of them imagines, that whatever he can filch from the possessions of Aftyphilus will be clear gain, and as it were a gift of fortune.

Now that the will cannot be genuine, but that Cleon and Hierocles have conspired to delude you, I have proved, as clearly as I am able; and I will proceed to demonstrate, that even had I borne no relation to the deceased, yet our early and uninterrupted friendship would have given me a better claim to his inheritance, than Cleon and his son can produce for themselves; for when my father Theophrastus took the mother of Aftyphilus in marriage from her brother Hierocles, she brought her infant son to his

house, where he continued for a number of years, and was educated under my father's care: when, therefore, I was old enough to be capable of receiving instruction, I went with him to the same publick school, as you shall hear from our friends, who know this to be true, and from the very masters who instructed us both. DEPOSITIONS.

I will also prove, that my father cultivated the paternal estate of Astyphilus, and so considerably improved it by plantation and tillage, that he doubled its value: let the witnesses come up. EVIDENCE.

When my brother then had proved his full age before the magistrate, he received his whole patrimony so justly and regularly, that he never once made the slightest complaint of his guardian: besides, my father had given the sister of Astyphilus in-marriage to a man whom he highly approved; and this conduct, as well as the pains which he had taken in managing some other affairs, gave complete satisfaction to the young man, who thought that my father, by whom he was educated in his infancy, had afforded him the clearest proof of his care and affection. The circumstances of his sister's marriage shall be proved by persons who were perfectly acquainted with them. WITNESSES.

Let me add to this, that my father constantly

took Aftyphilus, together with me, to the shrines of his family, and even introduced him to the feasts of Hercules, as the members of that fraternity will depose, in order to procure his admission into their society. EVIDENCE.

Revolve now in your minds, judges, the nature of my connection with Aftyphilus: first, we were bred together from our childhood; and secondly, there never was the least coolness between us, but he loved me with constant affection; as all our common friends and companions, whom I will call before you, will testify from their own knowledge. WITNESSES.

Can you believe then, judges, that Aftyphilus, to whom Cleon was so extremely odious, and on whom my father had conferred such benefits, would have adopted the son of his enemy, and given his estate away from his nearest relations and benefactors? I should not think it possible, if Hierocles were to produce ten such wills; but should insist that I, as his brother and his dearest friend, must have been the object of his benevolence, and not the son of Cleon: these men, indeed, have not the least pretence for suggesting that they were entitled to his favour, since they had no intercourse with him while he lived, and neglected even to inter his body, but invaded his possessions, before just honours had been performed to his shade. Nevertheless, they

have the audacity to claim his estate, not only relying on the will, but even setting up a title as his kinsmen, because Cleon was the son of his paternal uncle: to this argument, judges, you will pay no attention; for Cleon's father, as you before heard, was adopted by another family, and no man thus emancipated can succeed to the property, which he has relinquished, unless he be allowed in due form of law to return into the house from which he came: and, as to the pretended adoption of Cleon's son, the relations of Astyphilus so firmly believe it to be a fiction, that they never would admit the boy to their table in the festival of Apaturia, but always dismissed him when he came to demand his share of the feast, as I will prove by undoubted evidence. DEPOSITION.

Now, justly weighing in your minds what each of us has deposed, pronounce a sentence agreeable to truth. Cleon, you find, asserts, that his son was adopted by Astyphilus; and that the will, which he produces, was made by the deceased: this I absolutely deny, and alledge that I, who, as they know, am his brother, have a just claim to the whole inheritance. Beware then, judges, of appointing an heir to Astyphilus, whom he, when he was alive, would not have appointed; but let the laws, which yourselves have enacted, be your guide in my cause:

by those very laws am I protected, and request you, judges (nor can any request be more sacred), to establish my right of succession to my brother. I have asserted that he never disposed of his estate, and have confirmed my assertion by unanswerable evidence: assist me then in this distress; and, if Cleon surpasses me in the powers of elocution, let not his talents avail him in defiance of justice and law; but exert your own understandings in the decision of this cause, since for no other end are you assembled, than that the audacious may not reap advantage from their boldness, but that the timid and unexperienced may support their just claims, with a full conviction that your minds are intent upon nothing but the truth. Let your verdict, therefore, judges, be favourable to me; and consider what evils will ensue from your decree in favour of Cleon: first, you will send to the monument, and the shrines of Astyphilus, those men who were objects of his abhorrence; next, you will disregard the commands of his father, who gave them with his last breath, and will convict the deceased of consummate folly; (for who that hears such a decree, will not believe, that a man who could adopt the son of his greatest enemy had lost his reason through illness, or that his senses were impaired by poison?) and, lastly, you will suffer me, who was nursed

and educated with my brother, to be stripped of my fortune by this Cleon. I supplicate, therefore, and implore you, judges, to decide the cause in my favour; for thus will you give satisfaction to the departed spirit of Astyphilus, and will defend me from a flagrant injury.

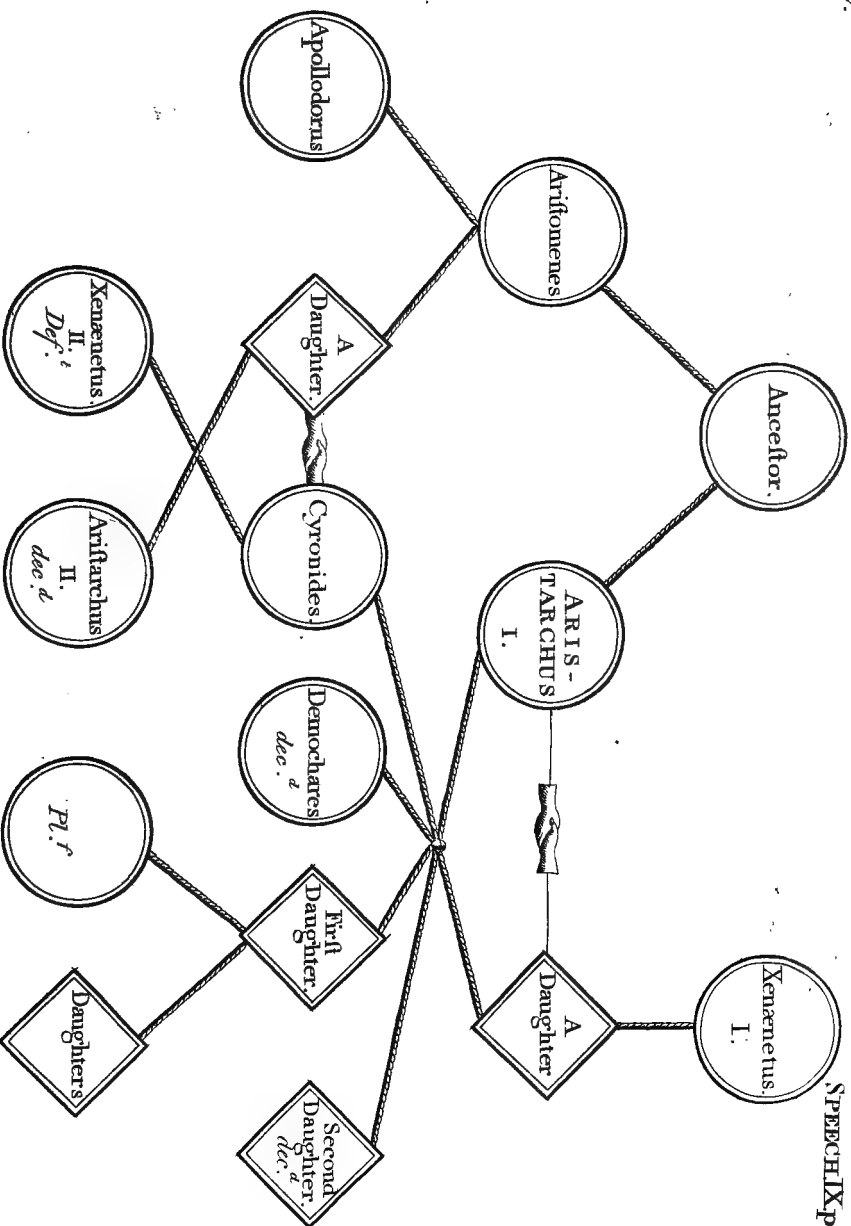
SPEECH THE NINTH.

ON THE ESTATE OF ARISTARCHUS.

THE ARGUMENT.

ARISTARCHUS having two sons, Cyronides and Demochares, and two daughters, one of whom was the mother of the complainant, emancipated Cyronides, and caused him to be appointed representative of his maternal grandfather Xenænetus ; leaving his other children to inherit his own estate. Demochares died without issue, and one of his daughters also died childless ; so that the whole 'fortune of Aristarchus came by law to the complainant's mother, who was the surviving daughter.

After the death of Aristarchus, his brother Aristomenes, who was lawful guardian to his children, gave his own daughter in marriage to Cyronides, and engaged to support his claim to all the possessions of his father, by whom he had been emancipated. Cyronides had a son, who was named Aristarchus, and was admitted by Aristomenes to the house and property of his grandfather, as if this had been conformable to the will of the deceased. This grandson died young, having by will left the



fortune to a brother of his, named Xenænetus.

While these things were transacted, and the younger Xenænetus possessed the estate of the elder Aristarchus, the son of the surviving daughter before-mentioned brought his bill of complaint, insisting that he alone ought justly to take the inheritance; that Cyronides was wholly excluded by his emancipation; that the deceased, having a legitimate son, Demochares, could not legally have adopted another by his will; and that Demochares himself, being under age, was disabled, as well as his sister who died, from introducing a son by adoption to their father's family: so that the admission of the younger Aristarchus to the possessions of the elder being illegal, the will of the person so admitted was invalid; since he could not transfer to another what he had not legally obtained. Isæus contends, therefore, that this last-mentioned will being set aside, the property devolves of course to the complainant, who represents the legitimate daughter of the elder Aristarchus. The speech is argumentative; and the cause turns upon the validity of such a will, and the comparative merits of both claimants.

SPEECH THE NINTH.

The Grandson of Aristarchus against Xenænetus.

I CANNOT help wishing, judges, that as this Xenænetus has been taught to speak falsely with confidence, I on my part were able to declare the truth in this cause with equal boldness; for then, I am persuaded, you would speedily determine, whether we are unreasonable in claiming the fortune in dispute, or they unjust in withholding it so long from the rightful heirs; but at present, judges, the contest between us is by no means equal, since these men have such powers in speaking and such activity in soliciting favour, that they have often been employed to manage the causes of others; whilst I, who have been so far from acting for other men, that I never before have pleaded even for myself, can only rest my hopes on your attention and indulgence.

I was compelled, judges, when I found it impossible to obtain redress without litigation, to declare on my examination before the magistrate, that my mother was the daughter of Aristarchus and sister of Cyronides, and thus to en-

ter her name on the publick tables: nor will this make it less easy for you to decide the cause; for the single point, which must be determined by law, is, Whether Aristarchus left his own property to the defendant, or disposed of an estate which he had no right to possess? This is the true question; for the laws permit every one to leave his own as he pleases, but have given no man a power to part with the possessions of another: if therefore you will hear me with benevolence, I will first inform you, that this estate belonged not originally to these associates, but was my mother's patrimony; and will afterwards endeavour to convince you, that Aristarchus occupied it by no law whatever, but, in violation of every law, conspired with his confederates to injure my mother. I will begin my narration from that period, whence you will be able to form the clearest conception of the whole case.

Aristarchus, judges, of Syppalletus married a daughter of Xenænetus the Acharnean, and by her had two sons, Cyronides and Demochares, with as many daughters, one of whom was my mother: now Cyronides, the father of the defendant, and of the other Aristarchus, who wrongfully kept possession of this estate, was received by adoption into another family, and consequently waived all right to the fortune of

that house, from which he was emancipated. On the death of old Aristarchus, his son Demochares inherited his possessions; but, he and his other sister dying without issue, my mother became sole heiress of the family estate; yet, although her nearest relation ought to have married her and defended her property, she was treated on that occasion, judges, with extreme iniquity; for, Aristomenes the brother of Aristarchus, having a son and a daughter, and having the option either to take my mother himself, or to cause her by an adjudication of the court to be wedded to his son, did neither one nor the other, but gave his own daughter, together with my mother's whole fortune, to Cyronides, of whom this Xenænetus and Aristarchus, now deceased, were the sons. After this he was pleased to give my mother in marriage to my father; and, Cyronides dying, the brother of Xenænetus was let into possession as the adopted son of the elder Aristarchus, whose name he bore: now that such conduct can be justified by no law, I will prove to you, judges, by many decisive arguments; and, first, I will produce evidence, that Cyronides was emancipated and adopted into the family of old Xenænetus, in whose house he died; next, that Aristarchus, the first purchaser of this estate, died before his son Demochares; that Demochares and his younger sister both

died infants; and, by consequence, that the inheritance came legally to my mother. Call up the witnesses. EVIDENCE.

This is our title, judges, to the estate in question; for, Cyronides being adopted into the family of Xenænetus, it descended from Aristarchus to his second son Demochares, and from him to my mother, who was one of his sisters: but, since they set no limits to their audacity, and presume to claim our property without any colour of justice, it is necessary to convince you, that the younger Aristarchus was admitted to the ward of the elder by no legal course whatever; for, when you are apprized of this, you will clearly apprehend, that no man can lawfully devise an estate, which he unlawfully possessed.

None of you, I believe, can be ignorant, that testamentary adoptions are legal only when the testator has expressly appointed and nominated the person adopted: now, if any one should say, that Aristarchus made such an appointment, he would speak untruly; for, while Demochares, his legitimate son, was living, he neither could have the inclination, nor would he by law have the power, to adopt another; or, if they assert, that, after the death of Aristarchus, such an adoption was made by Demochares, they will

again speak falsely; for an infant is not permitted to make a will, the law expressly ordaining that neither an infant nor a woman shall do an act for the disposal of a sum exceeding the price of one bushel of barley: but it has been proved, that Aristarchus died before his son Demochares, and that he too died not long after; so that even on a supposition of their having made their wills, which they never did make, it would not have been lawful for the younger Aristarchus to inherit these possessions. Read the laws, by which both the father and the son are forbidden, in similar circumstances, to dispose by will of their estates. THE LAWS.

It is then apparent, judges, that Cyronides had no power to appoint an heir to his father; he might indeed, if he had left a son of his own in the house of Xenænetus, have returned to his father's family; but, if they assert that he did return to it, they will speak against truth. Thus, if they insist that any third person appointed the deceased as heir to his grandfather, such an appointment would have been illegal; and if they urge, that his grandfather himself adopted him, they will not be able to produce any law by which such an adoption can be justified; but, not to expatiate on what they may probably alledge, it will appear still more glar-

ingly to you from what they actually do alledge, that they are in possession of my mother's inheritance against law and against decency.

It is certain, that neither Aristomenes, nor his son Apollodorus, to one of whom my mother should have been given in marriage, had any such right as that for which they contend; for it would be strange, when neither of those men, had my mother been married to one of them, could legally have disposed of her estate (since the law gives the fortune of an heiress to her sons in the second year after their age of puberty) if yet, when they disposed of her to another, they might nominate an heir to her possessions: harsh and absurd, indeed, would be such a construction of the law. Yet more, her own father, even had there been no male children, could not have left his estate without her; for the law permits a man, who has no sons, to devise his property to whom he pleases, provided that the devisee take his daughter in marriage. And shall a man, who neither thought proper to marry her himself, nor bore any nearer relation to her than that of cousin, be allowed, in defiance of all laws, to appoint an heir to her fortune? Can such an appointment be valid? Who among you can persuade himself of its validity? For my own part, judges, I am fully

convinced, that neither Xenænetus, nor any other mortal, can disprove my mother's right to this estate, which descended to her from her brother Demochares ; but, if they have the confidence to insist upon that point, command them to produce the law, by which the adoption of Aristarchus can be supported, and to declare who adopted him : this at least will be just ; but I well know that they can produce no such law.

Now that the property in dispute was my mother's at first, and that she was unjustly deprived of it by these plunderers, has been, I think, sufficiently demonstrated by the arguments which have been adduced, the evidence which has been laid before you, and the laws which you have heard : indeed the confederates themselves appear so perfectly conscious of their wrongful intrusion, that they rest not their argument solely upon the legality of Aristarchus's admission to the ward of his grandfather, but add, that his father had a lien upon the estate for expenses incurred by him in defending a suit concerning it ; so that, if their claim should be proved unjust on the first ground, they may seem on the second at least to have justice on their side. Yet that there is no truth, judges, in this assertion, I will convince you by the strongest argu-

ments; for, had the fortune been really incumbered, as they alledge, they would not have disbursed their money to pay the debt: it was not in fact their business; but those, who might have demanded my mother in marriage, should have deliberated on that affair; nor would they have appointed Aristarchus to such an inheritance, from which they could have received no kind of benefit, but must have sustained a considerable loss. Most people, indeed, when their circumstances are distressed, usually emancipate their sons, and remove them to some other family, that they may escape the ignominy of their father's misfortune; and did these men disengage themselves from their own families, and pass by adoption into a house burdened with debts, that they might lose even what before belonged to them? It cannot be: no; the estate was clear from incumbrances, and descended regularly to my mother; but my adversaries, eager for gain, have injured her, and invented these palpable lies to cover their iniquity.

Some one among you, judges, may be surprized, when he reflects on the time, which we suffered to elapse; since we were dispossessed of this estate, without asserting our right to it in a court of judicature, and may ask why after such

an interval we are at length induced to set up our title : now, though I cannot but think it unjust, that any man should lose his property, if either through inability or neglect he has omitted to make his claim (for the time is not to be considered, but the justice of his demand), yet even for this delay, judges, we can assign a very reasonable cause ; for my father, having engaged himself to my mother, married her with a portion, and thus waived her right as heiress ; while these men, therefore, enjoyed the fruits of her estate, it was not in his power to commence a suit ; and when at my mother's request he called them to account, they threatened to have her adjudged to them, unless he would be satisfied to take her with the portion ; but, rather than be deprived of her, my father would have permitted them to possess an estate of twice the value, and for this reason he neglected to prefer his complaint against them. After this came the Corinthian war, in which both he and I were obliged to enter the field, so that neither of us was able to attend a court ; and when peace was concluded, I had the misfortune of being a debtor to the public revenue ; nor would it then have been easy for me to have contended with such antagonists : so just are our excuses for this delay ; but it is now expedient, that my

opponents should declare, by whose gift Aristarchus possessed the estate, by virtue of what law he was admitted into his grandfather's ward, and for what reason my mother was not sole heiress of all his possessions. These are the questions which your suffrages must decide; not, whether we asserted our title a little later than the usual time; and, if they are unable to disprove our right, you cannot with justice avoid pronouncing a sentence in our favour: that they will be unable to disprove it, I am firmly persuaded; for it is not easy for them to contend against both law and reason; but they will endeavour to move your pity, by telling you in a mournful strain, that Aristarchus was a brave man and perished in battle, whence they will take occasion to insist on the cruelty of setting aside his testament. I too, judges, am perfectly sensible, that, if any man disposes by will of his own, such will ought to be binding; but that no disposition of another man's property ought in like manner to be substantiated: now this fortune appears to have been ours, not the testator's; so that, if they have recourse to this argument, and bring evidence of Aristarchus's will, oblige them to show, as justice requires, that he legally devised his own; for it would be the hardest thing imaginable, if Cyronides, and those who claim by descent from him, should not only have inhe-

rited an estate of above four talents from old Xenænetus, but should also seize this additional inheritance, whilst I, who am descended from the same common ancestor with Cyronides, am deprived of my mother's fortune, to which she had an indisputable right, especially when they cannot show in themselves even a colourable title: yet, as every possessor of an estate, whose right is contested, must declare who was the mortgagor or vendor of it, or prove that he recovered it by a decree of the court, so should these men, judges, have entitled themselves to your verdict, by showing in what manner their right accrued, and not by ejecting my mother before any trial from her paternal inheritance.

I suspect indeed, that this Xenænetus is not satisfied with having lavished the wealth of Aristomenes in his unnatural excesses, but wishes to spend my fortune also with the same disgraceful profusion; whilst I, judges, with a contracted income, having given my sister in marriage with as large a portion as I could afford; and, conscious of having conducted myself with decency, complied with the laws of my country, and served in its wars, have applied to this tribunal, that I may not be wholly stripped of my possessions.

To recapitulate the whole: I have proved that Cyronides, the father of these men, was

emancipated and removed into another family, from which he never returned, that the father of Cyronides and of my mother let this estate descend to his son Demochares, and that, he dying childless, it devolved upon my mother.

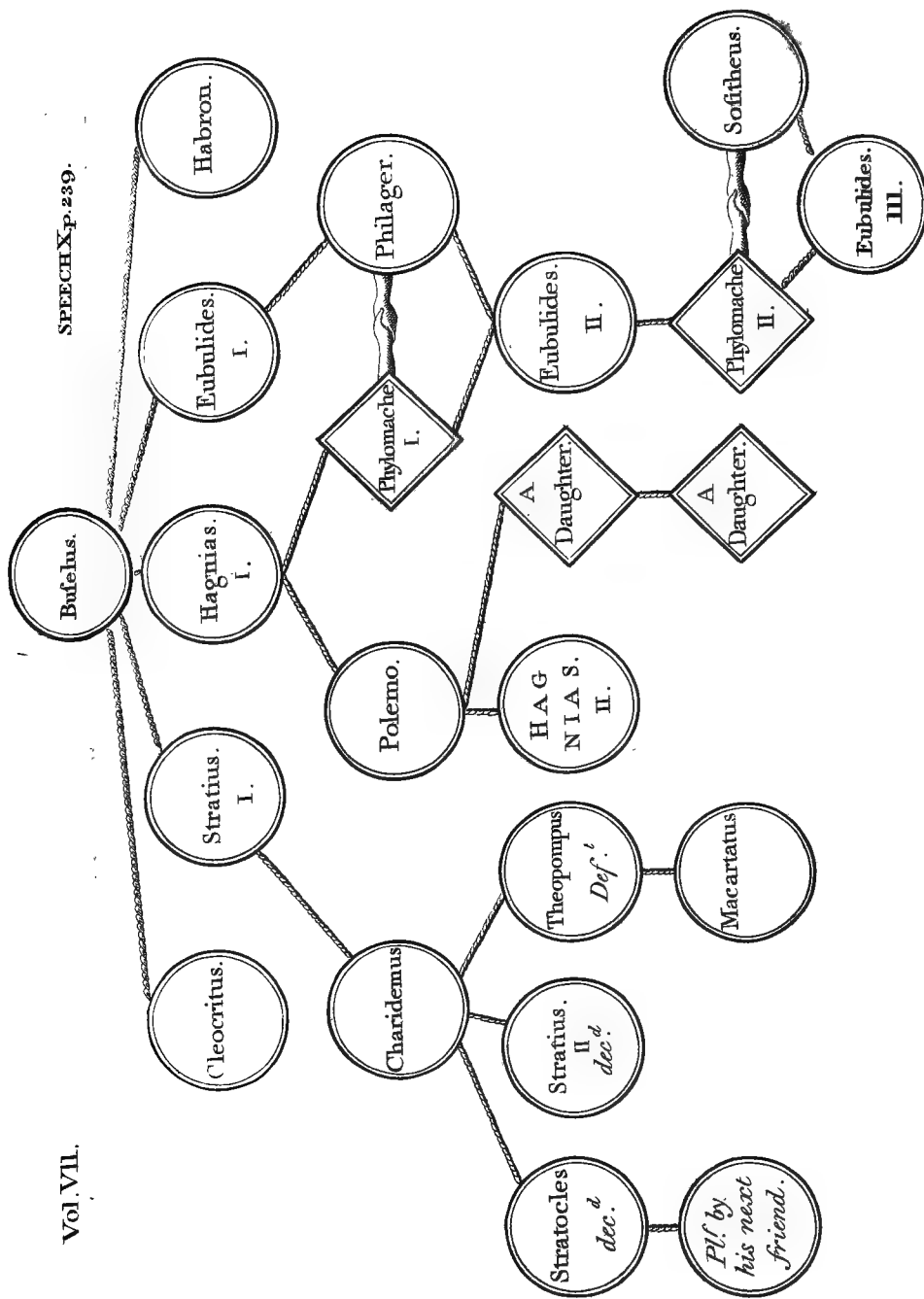
SPEECH THE TENTH.

ON THE ESTATE OF HAGNIAS.

THE ARGUMENT.

AN attentive inspection of the annexed pedigree will give a clearer idea of this interesting cause, than can be conveyed by words: it will there be seen that Stratius and the elder Hagnias were brothers, Charidemus and Polemo first cousins; and that HAGNIAS, whose estate is in question, was second cousin both to Stratocles, whose son is the complainant, and to Theopompus, whom Isæus defends.

On the death of HAGNIAS, first his niece, and then his half-brother Glauco, took possession of his effects, on pretence that the deceased had left them by will to his niece, with a remainder to Glauco; but Philomache, the daughter of his cousin Eubulides, proved the will to be forged, and obtained a decree for the estate. Theopompus then disputed the title of Philomache, and the former decree was reversed in his favour; but the son of Stratocles, who was in ward to Theopompus, claimed a moiety of the estate, alledging, that he had an equal right with his uncle. This was not a private suit, but a public prosecution, or information, against a guardian for injuring his ward.



SPEECH THE TENTH.

Theopompus against the Son of Stratocles.

I BEGIN my defence, judges, with a recital of the laws, because my adversary has falsely contended that, by the first of them, the son of Stratocles has a just claim to a moiety of this estate which was left by my second cousin Hagnias. You will observe that, when a man dies intestate and childless, the law first calls to the succession the brothers of the deceased, if he had any by the same father, and the children of those brothers, for they are related to him in the nearest degree; if he had no brothers, his sisters by the same father, and their children, are his successors; on failure of these also, those in the third degree are called, and they are the first and second cousins of the deceased by the father's side: if these too fail, the law returns to the first degree, and gives the inheritance to the brothers or sisters by the same mother, and to the other kinsmen on the maternal side, in order as those on the paternal side would have inherited. The legislator prescribes these rules of succession, and limits these degrees in terms

more concise than those which I use ; but his intention is clearly the same : now this boy is not related to Hagnias in one of these degrees, but is wholly excluded ; and, that you may form a distinct idea of the point which you must decide, let my antagonist show, without superfluous words, in which of the degrees just mentioned the boy is related to the last owner of this estate ; for, if he can prove his relationship in any one of them, I willingly allow that half of the inheritance belongs to him ; but, if nothing of this kind can be shown, will he not clearly convict himself of having calumniated me, and attempted to delude you in defiance of the law ? I will, therefore, bring him up to your tribunal, and interrogate him, as the heads of the law are read by the officer ; for thus will you soon be informed, whether, or no, this youth has any claim to the fortune of Hagnias.

Come, thou who art so skilful in accusing others, and in perverting the laws ; and do you (*to the clerk*) take the law and read. THE LAW.

There stop.—Now let me propose a few questions to my adversary : Is the boy, whom you support, the brother of Hagnias ? No.—Or his nephew either by his brother or his sister ? No.—Or his first or second cousin either on his father's side or on his mother's ? In which of those degrees, I say, that are legally called to the

ſucceſſion, was he related to the deceased?—Answer me not that he is my nephew; for my eſtate is not now in diſpute, as I am living; but had I died childleſs, and had there been a ſuit concerning my property, then would ſuch an answer have been proper. You now pretend, that the ſon of Stratocles has a right to a moiety of this eſtate; it is therefore incumbent on you to name the degree, in which the claimant was related to Hagnias. His answers, judges, are foreign to the purpoſe, and apply to every thing but that which you wiſh to know: yet a man, who intends to do juſtice, ought not to heſitate, but to ſpeak directly, and not only to answer with candour, but upon oath, and to produce evidence of the fact which he aſſerts, that you may the more readily believe his aſſertion; but now ſo ſhameleſs is his impudence, that, without giving one explicit answer, without calling a ſingle witneſs, without taking an oath, without citing any laws, he has hopes of perſuading you to convict me, againſt all law, in a cauſe which you are ſworn to decide according to the laws of your country. In this moſt iniquitous way of proceeding I will by no means imitate him, but will openly evince my relation to the deceased, will explain the grounds on which I claim his eſtate, and will demonſtrate to your general ſatisfaction, that both this

boy, and all those who have before contended against me for the same property, are utterly excluded from the limits of succession: but it will be necessary to relate from the beginning what has happened in our family, that you may distinctly perceive the weakness of their claim, and the solidity of mine.

Myself and Hagnias, judges, and Eubulides, and Stratocles, and Stratius, whose sister was the mother of Hagnias, were the children of three first cousins; for our fathers were the sons of as many brothers: now Hagnias, when he was preparing to embark on an embassy concerning some affairs of great advantage to the state, made his will, in which, instead of leaving his fortune, in case of any accident, to us his nearest relations, he appointed his niece to be his heiress, and ordered that, on her decease, his estate should go to Glauco, his half-brother. Some time after his death, both Eubulides died, and the niece whom Hagnias had adopted; upon which Glauco took possession of the inheritance by virtue of the limitation to him; nor did we then conceive it just to contest the validity of the will, but candidly acquiesced in it, and thought that the intention of the deceased ought to be effectuated: yet Phylomache, the daughter of Eubulides, assisted by her confederates, claimed the estate, and by surprize ob-

tained a sentence in her favour against the claimants under the will, although she was not in the regular line of succession; but she hoped, it seems, that we would not oppose her, as we had not disputed the testament of Hagnias: we, however (I mean Stratius and Stratocles and myself) perceiving that the inheritance was now open to the next of kin, were preparing to institute a suit: but, before our claim could be regularly and formally made, both Stratocles and Stratius died, leaving me the only surviving second cousin of Hagnias, to whom the law gives the right of succession, after the death of all those who stood in the same degree of consanguinity. Who will prove to you, that I am thus entitled to the estate, and that the children of my brothers, of whom this boy is one, are entirely excluded? The law itself; for it is confessed on all sides that the inheritance goes to the second cousins on the father's side, but whether it can descend to the children of those cousins, is now to be considered. Take the law, and read it to the jury. THE LAW. *But if there be no kinsmen on the father's side so near as the second cousins, then let those on the mother's side succeed to the estate in the same order.*

You must remark, judges, that the legislator hath not said, *if there be no nearer kinsmen on the father's side*, let the children of the second cou-

sons have the estate, but has given it, on failure of relations in the same degree with my brother and me, to those on the maternal side, to the brothers or sisters and their children, and so to the rest, as it has been before observed, whilst our children are completely barred from claiming any share: since then, had I been dead, the law would not have called them to the succession, how can they conceive, that, whilst I am living and legally possessed of the property, they can have any title to the inheritance? It cannot be: since the others, therefore, whose fathers were in the same degree with me, have not the shadow of a title, no more has this boy, whose father Stratocles was my brother. It is then most abominably iniquitous in my adversaries, when the laws have so explicitly given me the succession, and so manifestly excluded all others, to load me with calumny; and, when I put in my claim, neither to controvert my right, nor to give pledges of proving their own (although that was the time for contending with me, had justice been on their side): but now to harass me in the boy's name, and expose me by a publick prosecution to the greatest of all dangers, and, without accusing me of having embezzled the property, which belongs confessedly to my ward, and which, if I had unjustly or dishonestly lavished, as they have done, I should

have deserved this rigour; without pretending, I say, to bring any such charge, to attack me with so much violence for an estate, which you, judges, having permitted any one who pleased to litigate my claim, decided solemnly to be mine, is an excess of audacious iniquity.

What has already been urged, judges, has, I believe, convinced you, that I neither injure this boy in any respect, nor am in the least degree guilty of the crimes which they impute to me; but I think you will be able to form a more accurate judgement, when you have heard in what manner I claimed this estate, and for what reasons my claim was determined to be just. At the time, judges, when I began the suit, neither did my present accuser think proper to give pledges of supporting the title of this youth, nor had the children of Stratius, who stand in the same degree with him, any idea of opposing me, but all imagined that my right was on no pretence to be disputed; nor would this very man have now molested me, if I had suffered him to persist in plundering the boy's effects at his pleasure, and had not given a timely check to his rapaciousness: this part then of the family, as I just informed you, being persuaded that they were not in the order of succession, remained inactive; but the agents of Phylomache, the daughter of Eubulides, who was in an

equal degree with the son of Stratius, together with those to whose care the mother of Hagnias was committed, had the boldness to contend with me; yet so uncertain were they what title to set forth in their bill of complaint, that Phylomache, who was in possession of the estate, and the advocates, who supported her claim, not daring to disclose the truth, and having asserted a palpable falsity, were easily confuted by me; while the supporters of Hagnias's mother, who, being the sister of Stratius, was in the same degree with myself, but was excluded by the law, which gives a preference to males, waived that part of her pretended title, and, thinking to overpower me with their arguments, insisted that she was the mother of the deceased; a relation, I admit, the nearest of all by nature, but not recognised by law among the degrees of succession: having therefore proved myself to be a second cousin, and having shown the claims of these two women to be groundless, I obtained your decree; nor did it avail the first of them to have triumphed over those who relied on the will, nor the second, to have given birth to the last possessor of the estate; but so high a value did the juries set both on their oaths and on justice, that they established by their suffrages the legality of my title. If then I prevailed in this manner against these female claimants, by

demonstrating that they could not legally succeed, if this false accuser durst not at that time claim a moiety of the inheritance for the son of Stratocles, if the children of Stratius, who stand on the same ground with him, do not even now think it just to contest my right, if I am in possession of the lands and money by virtue of your sentence, and if I prove that my adversary cannot now show in what legal degree the boy was related to Hagnias, what else, judges, have you to learn? What further can you desire to hear in this cause? I persuade myself, that what has been said will be fully sufficient for men of your solid understanding. Yet this calumniator, who scruples not to circulate whatever his malignity can suggest, and flatters himself that his iniquity will continue uncensured, had the confidence to accuse me of many bad actions (for which defamation I shall, perhaps, call him to account), and particularly of having made a bargain with Stratocles, when we were preparing our suit, concerning a partition of the inheritance; a bargain which we alone, of all persons who were going to law, could not possibly have made: the daughter of Eubulides, indeed, and the mother of Hagnias, who claimed by two distinct titles, might have agreed, when they thought proper to oppose me, that whoever was successful should resign a share to the other, for a separate

urn was placed on the ballot for each of them ; but our case was totally different ; for as our title was precisely the same, although each of us claimed a moiety, a single urn would have served for us both, so that it was impossible for one to succeed and the other to fail, since the danger was common to both of us : no agreement then of this nature could have been made by us ; but, when Stratocles, before we had put in our respective claims, was prevented by death from prosecuting his suit, and his son was disabled by the law from renewing it, so that the whole succession devolved upon me as last in order, and it became necessary to evict the wrongful possessors of the estate, my accuser invented this idle calumny, expecting easily to delude you by his false pretences. That no such compact, indeed, could have been made to any purpose, but that the fixed and regular course of proceeding wholly prevented it, the law itself will evince ; which take and read to the court. THE LAW. Does this law seem to have put it in our power to make such a compromise ? Does it not render it impracticable, even if an agreement had been idly formed, by ordaining expressly that each party litigant shall sue for his distinct portion, but that a single urn shall serve for those who claim under the same title, and that all such causes shall be conducted in a

similar manner? Yet has this man, not regarding the positive direction of the law, not considering the impossibility of such a scheme, had the boldness to make this heavy charge against me without either truth or reason; nor has he been contented with this, but has asserted the most inconsistent things imaginable, to which, judges, I request your serious attention.

He avers, that I engaged to give the boy a moiety of the estate, if I prevailed over those who were in possession of it; yet, if he had a right to such a portion, by nearness of blood, as my adversary pretends, what occasion was there for such a promise on my part? If they speak truly, he had an equal power with me of exhibiting a bill for his moiety; and, if he had no kind of title as next of kin, what could possibly have induced me to make such an engagement, when the law clearly gave me the whole estate? Could not I have put in my claim without obtaining their consent? This they cannot say; for the law permits any man to claim a vacant inheritance. Had they any evidence then of my title, by suppressing which they might have prevented a decree in my favour? No such evidence was necessary, as I claimed by descent and not under a will. If it was impossible, therefore, for Stratocles, while he lived, to make any compromise with me, if he could not leave any part of these es-

fects to his son, as he had no decree, and the property never vested in him, if it is highly improbable, that I should have promised to give the boy a moiety, let your verdict on this day substantiate my just claim to the whole ; and, if these confederates never instituted a suit for this estate, nor ever thought proper to contend against me, can you possibly give credit to their allegations ? I think you cannot : but as you may reasonably be surprized, that they neglected at that time to demand their moiety, my opponent asserts, that my promise of resigning a share prevented them from attacking the other parties, and that they could not legally enter into a contest with me, because an orphan cannot bring an action against his guardian ; both which assertions are false ; for neither can they produce a law, which would have precluded my ward from asserting his claims (since the laws would by no means have restrained him, but, as they allow a criminal prosecution against me, so they give both me and him a mutual right of maintaining civil actions), nor were they deterred from litigating the title of others by any promise of mine, but solely by their consciousness that no part of the inheritance justly belonged to them ; and I am fully persuaded, that, had I even suffered the boy to obtain judgement against me for a moiety, his advocates and friends would not

have attempted to take possession of it, nor would they have permitted him to possess it, being perfectly aware of the danger; since, as they would have taken an estate without being in the legal order of succession, those in a nearer degree might instantly have applied to the court, and would infallibly have evicted them; for, as I began with observing, the law wholly excludes from the inheritance the sons of relations in the same degree with me, and, if our degree fails, it calls to the succession those on the mother's side; so that Glauco, the half-brother of Hagnias, might have contended with them for the estate, in which contention they would have been so far from producing a better title, that they could have produced no title at all; or if Glauco had relinquished his claim, the mother of him and of Hagnias might then have justly entered into litigation for the property of her son; and, as she would have disputed with persons by no means admissible to the succession, she would clearly have obtained your sentence for the moiety, both law and natural justice conspiring in her favour. It is apparent, therefore, that my accuser was not prevented from supporting the boy's demand either by my undertaking or by any law whatever; but, having by false pretexts and iniquitous calumnies contrived this information, and now having opened his pre-

tended charge against me, he has hopes of removing me from the guardianship and of transferring it to himself; imagining, that by this contrivance he shows his art and dexterity, since, if he fails of success, he will sustain no loss, and, if he attains the object of his machinations, he will dissipate with safety the possessions of this youth: you will not then listen to the allegations of my adversary, nor encourage the practice of prosecuting criminally, when the laws have provided a remedy by a civil action. So perfectly simple and so intelligible is the justice of my case: I will, therefore, in few words, recapitulate the heads of it, and having, as it were, deposited them in your memory, will afterwards proceed to the other part of my defence against the remaining articles of accusation.

What then is the real equity of my cause, and how shall I define it? This it clearly is: if my opponent avers, that the youth, from his relation to Hagnias, has a right to a moiety of his estate, let him sue for it in the court of the Archon; and if you there decide in his favour, let him, as the laws direct, take what he demands; but, if he abandons this claim, and insists upon my promise to divide the property, which I absolutely deny, let him bring his action; and if he can prove any such undertaking on my part, let him, as justice requires, have possession of

his stipulated share : again, if he alledges that my ward could not legally controvert my right or support an action against me, let him cite the law, which restrains him, and if he can fairly produce it, let him on that ground obtain a verdict for his moiety. Yet farther, if he urges that it was neither competent to claim half the estate, nor to bring an action on the supposed promise, but that he has, nevertheless, a legal title, let him petition the Archon, to make a lease of the possessions in dispute, and let the lessee demand a moiety from me as belonging to the son of Stratocles. It would have been consonant to justice, and agreeable to the directions of the law, to have followed any one of these methods; but it is neither just nor legal to harass me with a publick prosecution, when a private action was maintainable ; and to expose even my person to danger, because I will not resign to this boy the property which I recovered by your suffrages from those who unjustly possessed it : had I, indeed, managed any of those effects, which are indisputably his, with dishonesty and to his detriment, then would an information against me have been justifiable ; but not when I am guilty of no other crime than a resolution to keep my own estate.

Now, that my antagonist has not acted justly in any one of these instances, that he has not

spoken truth on any of the other points, but has fabricated this accusation from sordid motives of interest, warping the laws to his own sense, and endeavouring to circumvent both you and me against equity and reason, I think, by all the Gods, that none of you can be ignorant; so that all further arguments on this head seem unnecessary.

I observe, judges, that my adversary principally dwells in his charge on a comparison of the boy's fortune with mine, and represents his circumstances as extremely narrow, but expatiates on the imaginary wealth, which he bestows on me; accusing me at the same time of such avarice, that, although Stratocles left four daughters, I have not given a portion to any of them, even whilst I am in possession, as he asserts, of their brother's estate: this allegation I think it proper to refute; for he hopes, by his flourishing harangue, to raise your envy of me on account of my accumulated riches, and to excite your compassion for the children of my brother by deploring their pretended indigence. Of these facts, therefore, you must not be ignorant, but shall hear an exact state of them, which will convince you, that my accuser speaks falsely on this head, as he has spoken on all the others; for I should acknowledge myself to be the basest of mortals, if Stratocles had died in want, and I

being wealthy had taken no care of his children ; but if he left them a fortune both more ample and more secure than my own, so ample, indeed, that the girls were married with handsome portions, and the boy was made rich with what remained, if I have so diligently managed their affairs, as to raise their estate considerably, I cannot justly incur any censure for not resigning my own property to augment theirs, but rather deserve commendation for my prudence and industry: that all this is true, I can easily demonstrate; and, first, I will apprise you of our respective fortunes, after which I will show in what manner I have regulated the concerns of my nephew.

The patrimony of Stratocles and myself was such as might content us, but not sufficient to defray the expence of public offices: what proves it is, that neither of us received more than twenty minas with our wives, and so small a portion is not usually given to men of affluent fortunes; but it happened, that Stratocles had the addition of two talents and a half to his paternal inheritance; for Theophon, his wife's brother, died, having adopted one of his daughters, to whom he gave a farm in the district of Eleusis worth two talents, together with sixty sheep, an hundred goats, his household furniture, a fine horse on which he rode when he

commanded a troop, and all his other effects ; of which Stratocles having enjoyed the profits for nine whole years, left a fortune of five talents and a half, including his patrimony, but exclusively of what Theophon had given to his daughter. His estate was this : a farm at Thriæ, worth two talents and a half : a house at Melite, which has been sold for half a talent, and another in Eleufis, worth five minas ; such was the real estate of Stratocles, and these were the yearly rents of it ; of the farm, twelve minas ; of the houses, three : he had, besides, forty minas, out at interest, which, at the rate of nine obolus's a month for every mina, bring in annually seven minas and twenty drachmas ; his whole income, therefore, was more than twenty-two minas. In addition to these he left furniture, sheep, corn, wine, fruit ; all which have been sold for forty minas : he had also nine minas in money ; and to them we may add his debts, which were called in, to the amount of near ten minas, and which the widow of Stratocles acknowledged before witnesses to be the boy's property. I say nothing of the other effects which he left and which they conceal ; but I speak only of what appears, and what they are willing to admit. Call the witnesses to all these facts. WITNESSES.

Such was the fortune of Stratocles, and even

larger than this; but I shall have some other occasion to call them to account for the goods, which they have embezzled. Now what is my present estate? A farm in Cœnea worth only fifty minas, and the inheritance of Hagnias amounting to two talents and fifty minas, which sums together are less by one hundred and ten minas than the fortune of this youth: in this calculation too I have comprized the effects of my son, whom I emancipated, but have not added to the opposite side the property which Theophon left his daughter by adoption, and which may fairly be valued at two talents and a half; with that addition, which however I have not made, their estate will amount to eight talents. Moreover, the inheritance of Hagnias is not yet well secured to me, since some actions brought against the witnesses for perjury will make it necessary for me to obtain a second adjudication; but Stratocles left his possessions to his son uncontroverted and incontrovertible. Now let these depositions be read, to prove that my effects, together with those of my son, amount to no more than what I have mentioned, and that actions are depending against some witnesses in the cause concerning the estate of Hagnias. DEPOSITIONS.

Is the difference then trifling between our respective fortunes? Or rather, is it not so great,

that mine appears almost as nothing in comparison of that which was left to the children of Stratocles? You cannot therefore give credit to the assertions of this man, who, although the boy has a flourishing estate of his own, has ventured to prefer so violent and so groundless a charge against me, and insists on three estates, which he supposes me to have inherited, together with the vast wealth which I have amassed; all which, he says, I have secreted, that the publick may reap no advantage from my opulence. Such are the calumnies, which men, who have nothing equitable to alledge, are forced to invent, that they may confound the innocent with the boldness of their accusations! You will all, however, testify for me, that my wife's two brothers, Chæreleos and Macartatus, were not in the rank of those who bear expensive offices, but were in circumstances extremely contracted; you know, that Macartatus, having sold his farm, bought a galley, which he armed, and sailed in it to Crete; nor was this a private act, but of such notoriety, that it was mentioned in the assembly of the people, where some were apprehensive that the Lacedæmonians would consider such an expedition as a breach of the peace, and would consequently renew hostilities. Chæreleos, indeed, left an estate in Prospalta, not worth more than half a talent, and died be-

fore Macartatus, who soon afterwards perished in battle, where the vessel and all the goods, with which he had embarked, were taken. When the Prospaltian farm became the property of my wife, she persuaded me to emancipate one of my sons, that he might continue the name and preserve the family of her deceased brother Macartatus; not that my parting with that estate might exempt me from serving publick offices, for that made no difference, as I had served before it came to me, and was among the readiest to join in contributions, and to perform all the duties which you required of me; so that this informer most falsely charges me with being an useless, yet an opulent, citizen.

To conclude: I will sum up the whole cause in one word by a proposal, which you will allow, I am persuaded, to be just: I offer to bring my whole estate, large or small, into hotchpot with that of my ward, and when they are mixed together, let each of us fairly take a moiety of the aggregate value, so that neither of us may possess more than the other; but to this, I know, my adversary will never consent.

FRAGMENTS OF ISÆUS.

I.

From a Speech for Euphiletus against the Burgesses of Erchia.

THE ARGUMENT.

THE law, by which every borough in Attica was commanded to make a review of its members, and to reject all such as were not genuine citizens, gave the rejected a power of appealing to the courts of justice at Athens; but ordained, that, if the appellants failed in proving their right, they should be sold for slaves, and their property confiscated.

EUPHILETUS, the son of Hegesippus, had been disfranchised by the Erchians, in consequence of some private quarrel; and the dispute was at first referred to two arbitrators, who made an award in his favour; but, as the burgesses persisted in their refusal to admit him, he was not deterred by the rigour of the law from bringing his appeal. Isæus, who composed the speech for one of the appellant's brothers, began with an exact narrative of the whole transaction, and, having called witnesses in confirmation of it, supported their credibility with the following judicious observations.

FRAGMENTS.

* * * *

THAT Euphiletus, judges, is really our brother by the same father, you have heard proved by the testimony not of us only, but of all our kinsmen. Now consider first what could have induced our father to invent a falsity, and to take by adoption a son, whom he had not by nature ; for you will find, that all adoptions are made by men, who either have no children lawfully born, or are compelled by their poverty to adopt some wealthy foreigners, from whom they expect a pecuniary acknowledgment for the benefit conferred on them by making them citizens of Athens : but our father had neither of these motives ; for we two are his legitimate sons, so that he could not have been in want of an heir ; nor had he any need of support from this adopted son, since he possessed a handsome competence of his own ; and it has, moreover, been proved to you, that he maintained Euphiletus from his infancy, conducted his education, and introduced him to the members of his ward, of all which the expenses are by no means in-

considerable. It cannot then be thought probable, judges, that my father would have acted so unjustly without any prospect of advantage: still less can any mortal suppose me to be capable of such consummate folly, as to give false evidence in favour of another man, in order to make my patrimony distributable among a greater number; for I should preclude myself from the power of contending on a future occasion that he was not my brother; nor would any of you endure even the sound of my voice, if, having taken a part in the present litigation, and given in evidence my nearness of blood to the appellant, I should afterwards attempt to contradict my own testimony. It is reasonable too, judges, for you to believe, that not only we, but all his other kinsmen, have spoken conformably to the truth; for you will first observe, that those who married our sisters, would never have sworn falsely in his favour; since their wives are only the daughters-in-law of his mother, and step-mothers are in general apt to be at variance with the children of their husbands; so that, even had Euphiletus been the child of any other man than our father, it is not to be imagined, that our sisters would have desired their own husbands to be witnesses for the son of their step-mother: consider also, that the next witness, our maternal uncle, but in no

degree related to the appellant, would never have gratified His mother by making a deposition, not only false, but, if Euphiletus had indeed been a foreigner, manifestly injurious to his own nephews.

Yet more:—Who among you, judges, can suppose Demaratus, and Hegemon, and Nicoftratus, to be guilty of perjury; mén, who, in the first place, will be found unblemished with any bad imputation, and who, moreover, being intimately connected with us, and perfectly acquainted with our family, have respectively acknowledged upon oath the relation which they bear to Euphiletus? I would gladly, therefore, ask even the most respectable of our opponents, by what other mode he could prove himself to be a citizen of Athens, unless by that which we have used in evincing the right of the appellant; for I cannot conceive, that he could suggest any other method, than to show that both his father and his mother were citizens, and to adduce the testimony of his kinsmen in support of his allegations. Were our adversaries, indeed, exposed to the danger of losing their own franchises, they would think it just, that you should attend to the depositions of their friends and relations, rather than to the defamatory charges of their accusers; and now, when we give evidence exactly similar to that which they would have

given for themselves, shall they persuade you to be deluded by their pretences, instead of believing the father of Euphiletus, myself, and my brother, the members of our ward, and all our kindred; especially since the burgessees are in no dangerous situation, but keep up this contest to gratify their private resentment; while we, who bear witness in the cause of our friend, are liable to animadversion, if we speak falsely, in a court of justice?

To these arguments, judges, I must add, that Euphiletus's mother, whom our antagonists allow to be a citizen, was ready to make oath before the two arbitrators in the Delphinian temple, that Euphiletus was the son of her and of our father; and who could possibly know this more surely than herself? Our father too, judges, who, next to her, must be supposed to have the most certain knowledge of his own son, both desired at that time, and desires now, to swear, that Euphiletus was his child by an Athenian citizen, whom he had lawfully married. Myself also, judges, who was just thirteen years old, as I before informed you, when the appellant was born, am ready again to depose that this Euphiletus is actually my half-brother. You will justly therefore be of opinion, that our oaths deserve greater credit than the bare assertions of our opponents; for we, with

a perfect knowledge of the truth, are desirous of declaring it in favour of our kinsman, while they speak only what they have heard from his enemies, or rather what they have themselves invented: we too, judges, both laid before the arbitrators, and now lay before you, the testimony of his relations, who cannot be reasonably disbelieved; while they, when Euphiletus preferred his former complaint, as well against the burgeses of Erchia as against the mayor, who is since dead, and when the matter had been two years in a course of arbitration, were never able to produce a single witness of his being the son of any other man than of Hegesippus, which appeared so strong a mark of their false pretensions, that both arbitrators were unanimous in condemning them. Read now the proof of the former contest, and the event of it. EVIDENCE.

You have heard it proved, judges, that the award was unfavourable to our adversaries; and, as they would have relied on a contrary determination as a decisive argument, that our friend was not the son of Hegesippus, so we may fairly rely, as an argument no less decisive in his favour, on the determination, that the name of an Athenian had been injuriously expunged from the roll of his borough, in which it had first been properly inscribed. On the

whole, you have heard, I am convinced, very sufficient proof, that Euphiletus is really our brother and your fellow-citizen, and that he has been rejected with unjust indignity by the burgeses of Erchia.

II.

From a Speech for Eumathes.

THE ARGUMENT.

A slave, named Eumathes, had been regularly manumitted by Epigenes his master, and had opened a banker's house at Athens, where he resided in the capacity of a freed man, till Dionysius, his master's heir, claimed him as part of his estate, insisting either that there had been no manumission, or that it was irregular and void. This claim was opposed by a citizen who patronized Eumathes, and employed Isæus to compose his defence, of which all but the opening is unfortunately lost.

ON a former occasion, judges, I gave my assistance, with good reason, to the defendant Eumathes, and will now endeavour, as far as I am able, to co-operate with you in preserving him from ruin; but, lest any of you should imagine, that a forward petulance or ill-designed officiousness have induced me to interest myself in his affairs, I intreat you to hear a short explanation of my conduct. When I commanded a galley in the archonship of Cephisodotus, and a strong report of my death in a naval engagement had reached the ears of my friends, Eumathes, with whom I had deposited some valuable effects, called together my relations, to whom he discovered the deposit, and resigned my property to them with the most rigorous exactness: in return for this honest behaviour, when I was wholly out of danger, I cultivated a stricter friendship with him, and, when he set up his bank, advanced him a sum of money to increase his capital; and afterwards, when Dionysius claimed him as a slave, I prepared to assert his liberty, having positive knowledge, that Epigenes had enfranchised him in open court.

III.

From a Defence of a Guardian against his Ward.

I SHOULD have been happy, judges, not only if I had escaped the scandalous imputations of laying snares for the property of others, and instituting suits with that view (imputations, which I am so perfectly conscious of having never deserved), but also, if my nephew, instead of grasping at my estate, would have taken due care of his own paternal fortune, which we justly surrendered to him, a fortune not inconsiderable, but ample enough to sustain the burden of the most expensive offices; for then he would have been esteemed by all as a worthier man, while, by preserving and increasing his patrimony, he would have proved himself a useful citizen; but, since he has aliened part of it, and consumed the rest in a manner that gives me pain; since, relying on the number of his associates and the preconcerted quirks of his advocates, he has invaded my possessions, I cannot but consider it as a misfortune, that a kinsman of mine should act so disgracefully, and I must enter upon my defence, with all the activity in my power, against his direct accusation and the impertinent calumnies which accompanied it.

* * *

Now this is the plan which I have followed, that the truth may be justly extorted from the slaves; while my adversary, like a man desirous only of circumventing, has recourse to invectives and idle sophisms: were he willing, indeed, to obtain justice, instead of seeking to baffle and delude your minds, he would not act in this manner, but would come to a fair account, bring his own proofs, and thus interrogate me to every distinct article in my bill. How many taxes have you reckoned? So many, I should have answered, or so many. To what sum do they amount? To so much or so much. By what decrees of the people were they exacted? By these in my hand. Who received the money? These witnesses, who will swear to their receipt of it. He ought next to have examined minutely the number of the contributions, the sums paid, the decrees, the receivers; and, if all appeared just, to have allowed my account; if not, to have proved what falsity or unfairness he could find in it.

IV.

From a Speech against the Members of his Borough, concerning a Farm.

I SHOULD principally have desired, judges, to have sustained no injury at all from any citizen whatever; and next, if an injury were inevitable, to have sustained it from adversaries, whom I might bring to justice without concern; but I now find myself reduced to a most afflicting alternative; for I am injured by my fellow burgesses, whose invasion of my property it is not easy to pass over without complaint, and whose attacks it is unpleasant to repel with animosity, since necessity obliges me to meet them often on occasions of publick business. It is difficult also to contend with many antagonists, whose number alone has a considerable effect in giving them the appearance of speaking truth; yet, relying on the merits of my case, and having suffered many enormous hardships, I conceived that I should no longer decline attempting to obtain redress by your sentence: give me therefore your indulgence, if, young as I am, I have ventured to open my lips in a court of judicature; for the sense of my wrongs

compels me in this instance to depart from my former habits of reserve ; and I shall now endeavour to apprize you of the whole transaction, relating it from the beginning as concisely as I am able.

V.

From a Speech in an Action of Debt.

* * *

THIS most abandoned of men, without producing those witnesses, before whom he asserts the money to have been paid, affects to think it just, that you should give greater credit to them, who alledge that it was restored, than to us who deny that we have ever received it; yet it is well known, I believe to all, that, as in the flourishing state of their father's fortunes, they would not have discharged the debt without compulsion, so after his disgrace and total ruin we could not even have compelled them to discharge it.

* * *

NOTES ON ISÆUS.

PAGE 75. —of which they boldly assert that he was a creditor.] A slight variation in the text would make it necessary to alter the translation of this passage; and, instead of the words above cited, to read—"which they assert that he had encumbered with debts:" it seems, however, more probable, that the devisees pretended to have a lien on the paternal estate of the young men for some money due to the deceased, than that Cleonymus should have mortgaged the property of his nephews, which we can hardly suppose that he had a power of doing.

76. Polyarchus] Reiske has substituted Poliarchus, *ruling the city*, instead of Polyarchus, *with extensive sway*; but the first proper name appears to be unsupported by analogy, and the second stands foremost in the list, which Xenophon has given us, of the thirty tyrants.

77. Cleonymus himself, when he recovered

from that illness, in which he made his will, declared, that he wrote it in anger.] The construction, which Taylor proposed, and which Reiske thought unintelligible, seems to convey a clear and obvious meaning, as I have rendered it.

80. When one of the proper officers came to the door] The text has Archonides, a proper name, which I cannot help suspecting, as the Archon is mentioned a few lines before; and the similarity of sound might have misled the transcriber.

82. — one of the two most opposite things] I have supplied a chasm in the original, as well as I was able, and have given the passage a tolerable sense. Taylor supposes this speech to be very imperfect, and imagines that half of it is lost, because the names of Pherenicus and Simo, who are not mentioned in the oration, occur in the argument; but it must be observed, once for all, that the Greek arguments are for the most part erroneous, and seem to have been written by some very ignorant grammarian.

84. —the Cyprian] Not a native of the island Cyprus, but member of a borough in Attica so named. Reiske.

—possessed of three talents] I used to value the Attick talent, on the authority of Arbuth-

not, at 193l. 15s. and to think it considerably underrated by Tourreil and Prideaux; but my friend Mr. Combe, whose knowledge of ancient coins is no less exact than extensive, has convinced me that Arbuthnot himself has undervalued it; for, by weighing with great accuracy thirty of the finest Athenian tetradrachms in the collection of Dr. Hunter, and by comparing the average of their weight with the standard price of silver, he showed to my full satisfaction, that the Attick drachma was worth about eight-pence half-penny, the sixth part of which was the obolus, or one penny, and five twelfths; the mina therefore, which Solon raised from sixty to a hundred drachmas, was equal in value to three pounds ten shillings and ten pence, and the talent, or sixty minas, to *two hundred and twelve pounds ten shillings*. Three talents then, of which Pyrrhus was possessed, were six hundred and thirty-seven pounds ten shillings, a small fortune in England, but not inconsiderable at Athens, where silver was scarce, and even the superfluities of life easy to be procured. Wherever Attick money is mentioned in these speeches, the reader will in a moment reduce it to English money by the help of this note.

89. —one witness only, named Pyretides] I have left the word διαπαρόμενον untranslating, although it is emphatical in itself, and seems to

have no small force in the original ; but its common acceptation is hardly reconcilable with the context ; for it implies an actual subornation of Pyretides, who yet was but a pretended witness, and disclaimed any knowledge of the affair. Can it be rendered thus—"Pyretides, whom he hired to attend him?" Or thus—"Pyretides, whom he attempted to suborn?"

90. —when Xenocles went to Thebes with an intention to eject our servants from the mines]. It is impossible not to agree with Reiske that this passage abounds with difficulties ; nor could I have made it intelligible in a verbal translation. As to the words, *εἰς τὸ ἐργαστήριον τὸ ἡμέτερον εἰς τὰ ἔργα*, it is observable that Demosthenes has a similar repetition in the beginning of his speech against Pantætetus, where the cause relates to a dispute about a foundery in Maronea. Perhaps, on the authority of that parallel passage, we might here read *ἐν ταῖς ἔργοις*. How there came to be *works* in the territory of Thebes, or how an Athenian could have property in the Theban dominions, I cannot tell. It once occurred to me, that if *Θήλαζε* were the true reading, and not *Θρίαζε* or *Θόραζε*, there might have been a district in Attica of that name ; but that was mere conjecture ; and the distance from Athens to Thebes in Bœotia appears in the best maps of ancient Greece to be

just three hundred stadia. Ἐξαγωγή is a forensick term exactly answering to *ouster*; and in this technical sense the verb ἐξάγειν, *to oust*, is used by Isæus, once in this speech, and twice in that on the estate of Dicæogenes. Reiske supposes, in one of his notes, that the servants of Xenocles were ousted by the brother of Endius; but why should Xenocles carry so many witnesses out of Attica, to attest an act which he could not positively foresee? The learned editor's note and translation are at variance in the interpretation of this dark passage. I have chosen the least exceptionable sense, although one does not easily see the necessity of travelling so far to claim the estate of Pyrrhus, the title to which was soon after brought before the court in another form: the reasoning, indeed, of Isæus in this place proves, that the act of Xenocles was frivolous.

113. —should not pay the ordinary costs of the suit] In the original, μὴ κατὰ τὸ τέλος ζημι-
σθαι, upon which passage Reiske has the following ingenious note: “Locus difficilis, dictio
“perambigua et inexplicabilis! Suspiciabar ali-
“quando tantundem hoc esse atque κατ' ἐπιωβελίαν,
“non solummodo sextâ parte summæ universæ,
“quam valent bona petita. mulctari, sed totâ
“summâ. Nunc dubito, an potius significet
“*pro censu*. Censebatur civis quisque quantum

“ in bonis haberet, atque pro isto censu major
 “ aut minor cuique multa *pro*rogabatur. Quæ-
 “ rant peritiores.” Without pretending to be
 one of those, to whom the candid annotator re-
 fers for a solution of this difficulty, I will fol-
 low him in fairly confessing my doubts and even
 my errors. I once imagined with him, that no-
 thing more was meant than the fine of an obo-
 lus for every drachma, or a sixth part of the
 sum claimed; and I amused myself with con-
 jecturing that ΚΑΤΑΤΟΤΕΛΟC might have been
 written by an ignorant transcriber for ΚΑΤΟΒΟ
 ΛΟΥC; but I soon acquitted the transcriber and
 laughed at my own criticism. As to the suppo-
 sition that the party who made a false claim
 was amerced in proportion to his rank or *census*,
 I never could adopt it: there is no authority
 for such an interpretation; and the wise Athe-
 nians would not have allowed a practice, which
 would have been a check to the wealthy only,
 who were less likely to institute iniquitous suits,
 while the low and indigent might have disturbed
 the titles of their fellow-citizens without much
 danger. My next idea is expressed in my
 translation: as τέλος was anciently used for *ex-
 pense*, whence εὐτέλεια signified *frugality*, and
 πολυτέλεια, *profusion*; I conceived that Isæus
 meant only the costs of suit, or *expensa litis*,
in quibus, to use the words of the Roman code,

viCTOR victori condemnandus est; and the Athenians, I supposed, had the same maxim. In this notion I acquiesced, till the very learned editor of Euripides favoured me with his opinion, that τέλος was a generick name for a tax or duty, and comprehended, among other branches of the revenue, the περὶ τανῆια, or *deposits*, which are mentioned by Aristophanes, and by Isæus himself in his second speech, and which were forfeited to the publick by the unsuccessful claimant: he thought, therefore, that the Greek words ought to be rendered—"not only to be punished by a forfeiture of his deposits." This seemed plausible; but it appears from the scholiast of Æschines, that those forfeited deposits were the perquisites of the jury, and I am now convinced without a shadow of doubt, that the passage must be translated thus: "It would be right, judges, that every claimant of an estate, by gift or testament, who fails in proving his title, should not be amerced *by the limited power of the magistrate*, but should forfeit to the state the full value of the fortune which he falsely claimed." It was inconsistent with a free government that any magistrate should have an unlimited power of imposing fines: the senate itself could impose none exceeding five minas, which was less than eighteen pounds; and, in the speech of Demos-

thenes against Euergus and Mnesibulus, that venerable body are said to have deliberated whether they should set a fine upon Theophemus *to the full extent of their legal power*, or should deliver him over to a court of justice, that he might be more severely punished. Now among the various senses of τέλος it denotes, according to Ulpian, *the power of a magistrate*; and the very words of Isæus are taken from the law of Solon preserved by Demosthenes in his speech against Macartatus: “Let the archon take care
 “ of orphans and heiresses, and protect them
 “ from violence: if any one should injure them,
 “ he may fine the delinquent *κατὰ τὸ τέλος*”—
 which Potter translates very properly, *as far as the limits of his power extend*. If the magistrate thought he deserved a heavier penalty, he was directed by the same law to prefer an accusation against him, in the nature of an information *ex officio*, in the court of Helixæa; where a corporal punishment might be inflicted, or a larger mulct imposed, by the verdict of a jury. This passage in Demosthenes puzzled Wolfius, who seems to have been dissatisfied with his own explanation of it; and Reiske, though he was apprized of Petit’s interpretation, still returns to his own opinion, that τέλος there signified the *fortune and rank* of the offender, an opinion unsupported, as I intimated before, either by reason or authority.

120. —committed by the magistrates to prison (whence he was afterwards released) together with some other felons, whom you publickly sentenced to an ignominious death] The text is, *πρῶτον μὲν εἰς τὸ δεσμωτήριον ἀπήχθη, τῷτο ἀφαιρεθεῖς, μεθ' ἐτέρων τινῶν ὑπὸ τῶν ἐνδεκα, ὅς δημοσίᾳ ἀπαντας ὑμεῖς ἀπέκτειναντε.* A most perplexing passage! If the relative belong to the eleven, instead of the criminals, it must be translated in this manner: “ he “ was first committed to prison, and afterwards “ set at liberty with several others, by those “ eleven, all of whom were publickly executed “ according to your sentence.” It is well known that the office of the eleven at Athens corresponded in some respects to that of our justices of peace, and in others to that of our sheriffs; they had power to commit felons, and were obliged to see them executed after their conviction. Now had the Athenians at any time put so many magistrates to death for suffering criminals to escape, or for any other misbehaviour, history would certainly have recorded so extraordinary a fact. There were, indeed, *eleven* ministers of the thirty tyrants, who are mentioned by Plato, and who were most probably executed with their employers. Xenophon says, that, after the restoration of the popular government by Thrasybulus, the thirty tyrants, the ten governors of the Piræus, and *the eleven who*

ruled in the city, were excluded from the benefit of the general amnesty. Hence the oath taken by the citizens; that they would not remember the injuries done by any, *except the thirty and the eleven*. If we suppose Chariades to have been released by these men, who must have been killed in the second year of the ninety-fourth Olympiad, we may form a plausible guess concerning the date of this speech; for, if he fled from the Areopagus in the year after his release from prison; if Nicostratus died seventeen years after that; and if two years were spent in the controversies among the six first claimants of his estate; this cause, in which Isæus was employed, might have been tried in the twenty-first year after the archonship of Euclid, in which year Demosthenes was born. After all, how uncertain are these conjectures upon conjectures!

124. Let the oath again be read.] Why so? Could it so soon have been forgotten? I am persuaded, that these words were repeated by mistake; and that in this place were read the schedule and inventory mentioned in the preceding pages.

125. having failed to Cnidos] This could not have been the sea-fight at Cnidos, in which Conon obtained a signal victory over Pisander. It is probable that the naval engagement, in which Dicaogenes fell, was that described by

Thucydides in his eighth book, which happened in the first year of the ninety-second Olympiad, and the twentieth of the Peloponnesian war; when Aftyochus defeated Charminus at Syme near Cnidos: now if we suppose, as we reasonably may, that the fortune of the deceased was distributed among his relations in the same year, each of them must have possessed his share till the second year of the ninety-fifth Olympiad. The troubles, to which Isæus alludes, began in the archonship of Pythodorus, but lasted some time after that of Euclid: in that interval the defendant Dicæogenes was instigated by Melas to claim the whole estate, although he did not obtain judgment for it, till twelve years had elapsed from the first distribution; and, as he enjoyed the profits of the estate for ten years, this speech was probably delivered in the last year of the ninety-seventh Olympiad, or two thousand one hundred and sixty-six years ago, and may therefore be considered as one of the most ancient monuments now extant in the world of the litigation, which naturally followed the liberty of transmitting property by will.

127. —having purchased the house of their father and demolished it] Reiske alters the punctuation of the text, and gives it this sense: that Dicæogenes bought the house of Theopompus, and, having dug up the garden, which separated

it from his own house, filled the intermediate space, and made one very large mansion for himself. Surely, this is a forced construction founded on a very uncertain conjecture. The cruelty of the act seems to have consisted in his having demolished the dwelling house and dug up the area, as if Theopompus had been a traitor. The sentence against Antipho the orator and Archeptolemus is preserved, and part of it was, *that their houses should be demolished*. The word *κατασκαπτειν*, which is used both in that sentence and by Isæus, seems applicable to a *building*, but not to a *garden*. I perceive, on revising this passage, that the words *παίδων ὄντων τῶτων*, *while they were boys*, are left untranslated. Few translations, not strictly verbal, are free from such oversights.

127. — he sent my cousin Cephisodotus to Corinth] Probably at the beginning of the ninety-sixth Olympiad, when the Corinthian war broke out.

129. — but the sisters of the deceased whose daughters we married] If we suppose that the sisters of Dicæogenes had daughters, who intermarried with their first cousins, we need not have recourse to Reiske's conjecture, that this part of the speech was delivered by a different person.

138. — when Lechæum was taken] That

is, in the fourth year of the ninety-sixth Olympiad, three hundred and ninety-two years before Christ.

138. —the Eponymi] We are here obliged to Reiske for an excellent emendation: the old reading was *ἐμωνύμων*, which can have no meaning, unless we suppose that statues had been erected to the memory of the brave citizens, who bore *the same name* with Dicæogenes: but the *Eponymi* were the ten heroes, from whom the ten tribes of Attica were *named*, and many publick instruments were hung up on their statues, which stood in the most conspicuous part of the city.

140. —in the battle of Eleufis] That venerable scholar and foldier, M. Pautmier de Grentemefnil, has taken great pains to elucidate this passage of Isæus; but seems, after all, to have left it as dark as he found it. Whether Dicæogenes, the plaintiff's great-grand-father, perished, as Reiske imagines, in the irruption made by Plistoanax into the district of Eleufis, or whether he fell in one of the preceding skirmishes with the Corinthians, mentioned both by Thucydides and Diodorus, I must leave undecided, and that without much regret. The battle of Spartolus, which the historian of the Peloponnesian war has fully described, was fought in the fourth year of the eighty-seventh Olympiad, the same

year in which the death of Pericles was more than compensated by the birth of Plato. The conjecture of Paumier, who would read Ὀλυνθίας instead of Ὀλυσίας, and would render it *Spartolus in the Olynthian territory*, is ingenious but not convincing. Spartolus was known without an adjunct: had any been necessary, it would have been Βοττῖα; but a place, where Athens lost four hundred and thirty gallant men, with all their general officers, must have acquired a dreadful celebrity. Still less can we be satisfied with the hypothesis of Reiske, who proposes to read Ὀδρυσίας, *although the Odrysians had nothing to do with Spartolus; but the orator, says he, might not have been skilled in geography, and might have confounded Odrysia with Bottiæa*. His other conceit, to which he was less partial, that the troop, which Menexenus commanded, was called *Odyssæan*, from Ulysses, has more ingenuity in it. By what names the Athenians distinguished their legions, I have not learned: if Ὀλυσίας be the true reading, the name may bear some affinity to the words ὁλοός or ὁλέθριος, *destructive*.

141. — the Olynthians] Ὀλυνθιοί. “Spectrum hoc nomen. Olynthios, qui semper Atheniensibus infesti fuissent, pro his occubuisse dimicantes adversus Peloponnesios, unde ipsi orti essent, id verò miror, neque memini usquam legere.” Reiske. It is absolutely cer-

tain, that the Corinthian, not the Peloponnesian, war is here meant by Isæus : now the Olynthians had actually begun to distinguish themselves as an ambitious and martial people at the very time when this cause was heard. I was unwilling, therefore, to alter the word in the text, although I have always suspected, that Ὀπουντιοὶ was the genuine reading. The Locri Opuntii, who, both on their own coins and in the Greek books, are called sometimes Locrians, and sometimes *Opuntians* only, were the first promoters of this war; and it cannot be conceived, that they remained inactive, when their supporters the Thebans had engaged Athens in their quarrel.

141. — thy ancestors, who slew the tyrant] The song of Callistratus, which every school-boy in the higher classes can say by heart, has made the name and story of Harmodius familiar to all. If the defendant Dicæogenes descended from that line through his father Proxenus, and not through his mother, the pedigree prefixed to this speech must be corrected; and, indeed, there does not seem to be sufficient reason for supposing that Proxenus and the first Menexenus were brothers.

142. — thou, Dicæogenes] Contempt and indignation cannot be more strongly marked, than by the position of the proper name at the

end of this speech ; but it would not have the same effect in our language without voice, look, and gesture, to enforce it. The single name of Dicæogenes, as it stands in the original, supplies the place of epithets, and instantly suggests the idea of every thing despicable.

144. —when Menestratus failed to Sicily] Who Menestratus was, I know not ; but have not ventured to depart from the text. The date of this speech may be fixed with the greatest certainty ; for Isæus afterwards says, that fifty-two years had elapsed from the fatal expedition to Sicily in the archonship of Arimnestus, that is, from the first year of the ninety-first Olympiad ; so that, if *from* be exclusive, and complete years be meant, the cause was tried in the second year of the hundred and fourth Olympiad, when Chariclides was Archon. This was the year after Demosthenes, who was then in all probability a pupil of Isæus, had spoken in his own cause against his guardians.

153. Philoctemon was slain at Chios] Most probably in one of the engagements mentioned by Thucydides in his eighth book. Timotheus, whom Phanestratus accompanied, was perhaps the son of Conon, who afterwards acquired such fame by his victory at Leucas ; and Chæreas, who married the daughter of Euctemon, might

have been the son of Archestratus, whose actions are recorded by the historian.

155. —more than three talents] That is, including the price of the slaves, without which the sums enumerated amount to less than three talents by four minas and fifty drachmas. The text is extremely clear, but Reiske's note gives me infinite trouble; nor can I yet comprehend by what method of computation he made the whole sum rise to four talents, wanting fifteen minas. He was not, *forsooth*, with all his learning, a great arithmetician.

166 —yet how can a man be said to have died childless] We must here give Reiske the applause, which he justly deserves, for a most happy and ingenious emendation. The original, in the edition of Stephanus, is, πῶς ἐν Αἰσ-
μῷ τις; but, in that of Aldus, it is, ΠΩΣ ΟΥΝ ΑΝΑΙΣ-
ΙΜΟΣ ΤΙΣ, which was manifestly corrupted by the change of three letters from ΠΩΣ ΟΥΝ ΑΠΑΙΣ ΗΝ
ΟΣΤΙΣ; so that the imaginary personage, Æsimus, vanishes at once, and there remains a perspicuous intelligible sentence. Another correction, which I cannot adopt, was proposed by the writer of a few notes on a loose piece of paper, now preserved at Eton, in an edition of the Greek orators, which formerly belonged to Mr. *Topham*. These notes were transcribed by Taylor, and his transcript was sent by Dr. Askew to

Reiske, who constantly cites it by the name of *liber Tophanis*, desiring that nobody will ask him who *Tophanis* was, and frankly declaring that he could not tell. I mention this trifle for the sake of those, whose curiosity may be raised by seeing the references to this unknown critick.

173. —who has since been appointed hierophant] The ἱεροφάντης, who conducted the ceremony of initiation into the mysteries, was not permitted to marry after his appointment to that sacred office; but a previous state of celibacy was not a necessary qualification. Lyfias, in his speech against Andocides, mentions one Diocles, son of Zacorus the hierophant.

This cause was probably heard a short time after the Corinthian war.

189. —I am not without hopes] It is remarkable, that this passage of Isæus is copied almost word for word by Demosthenes in his first speech against his guardian Aphobus, as the reflexions upon torture [p. 192] are repeated by him in one of those against Onetor. Demosthenes was very young, when he delivered those four speeches; but I cannot see sufficient ground for believing that Isæus composed them, although he might have given them a few touches with his pencil: they are not too highly finished for a boy of eighteen, who had studied under such a master, whose language and manner he zealously imitated.

205. —a few stony fields] In the old editions, *φελέαδα χωρία ατλα ἐκείνῳ δέδωκε*. I wonder that Reiske should entertain a doubt concerning the genuine reading of this passage, when he cites Harpocration, who says expressly, that Isæus, in this very speech, uses *φελλέα* for *a stony place where goats browse*. The orator wrote, *φελλέας δὲ*, which some reader thought proper to explain imperfectly in the margin by *χωρία ατλα*; *fields so called*; and, when this rude gloss found its way into the text, the original itself was corrupted.

206. —when I have brought him to a trial] Diocles was afterwards prosecuted; and Isæus composed a speech against him, from which ten or eleven words are cited by Harpocration.

209. Aftyhilus died at Mitylene, whither he had failed with the army] I once imagined that he might have failed with Thrasybulus, who was sent on an expedition against Lesbos in the archonship of Philocles, the year after the taking of Lechæum; but, as it afterwards appears, that he had served at Corinth, in Thessaly, and during the whole Theban war, which was not concluded till the third year of the hundred and third Olympiad, I am at a loss to determine on what occasion he could have gone with the army to Mitylene, unless it was in the social war, in which Lesbos, probably, took some part, as her neighbour Chios was so warmly engaged

in it. If my conjecture be just; this was, perhaps, one of the last speeches written by Isæus; who, according to the hypothesis in my prefatory discourse, must have been at least sixty years old when he composed it.

226. —the daughter of Aristarchus and sister of Cyronides] This was the truth; but the text, which I think imperfect, makes him declare his mother to be the sister of Aristarchus. She would, indeed, have been the sister of the younger Aristarchus, if his adoption had been legal; but why it was necessary to admit the legality of that adoption before the magistrate, and even to acknowledge it on record, I cannot conceive.

234. —After this came the Corinthian war] It follows from this passage, that the speech was delivered some time after the ninety-sixth Olympiad, above one-and-twenty centuries ago.

239. I begin my defence, judges, with a recital of the laws] I suppose that the laws of Solon concerning inheritances, were read by the clerk, before Theopompus opened his defence.

242. Phylomache obtained a sentence in her favour] The year in which this sentence was pronounced is fixed with the utmost certainty by a deposition preserved in the speech of Demosthenes against Macartatus, concerning which I intend to discourse at large in the commentary. The witnesses depose, “ that they were

present before the arbitrator in the archonship of Nicophemus, when Phylomache, the daughter of Eubulides, obtained a decree for the estate of Hagnias against all her opponents." Now Nicophemus was archon in the fourth year of the hundred and fourth Olympiad, three hundred and sixty-one years before Christ. Some time must have been spent in the litigation which followed before this cause could have been ripe for a hearing; and we cannot be very far from the mark, if we conclude that it was heard two thousand one hundred and thirty-five years ago.

255. I will show in what manner I have regulated the concerns of my nephew] The orator promises to enlarge upon two heads, and he only touches upon the first, namely, the comparison between the fortunes of Theopompus and Stratocles; hence it is manifest, that part of the speech is unhappily lost.

256. His estate was this:]

STRATOCLES.				THEOPOMPUS.			
	T.	M.	D.		T.	M.	D.
Thriasian farm	2	30	0	Ænean farm	-	0	50 0
Two houses -	0	35	0	Inheritance of			
Money out at in-				Hagnias - -	2	50	0
to rest - - -	0	40	0	Deficiency -	1	50	0
Goods and cash	0	49	0				
Debts - - -	0	10	0				
Patrimony -	0	46	0				
	5	30	0				

The patrimony of Theopompus must have been included in the farm at Cœnea; and it is necessary to read *πεντακισχίλια* in the valuation of Hagnias's estate. The interest of the forty minas at nine obolus's a month, is properly computed; and the young man's fortune, including the legacy of Theophon, was exactly eight talents, or seventeen hundred pounds. Nothing can be more clear than the text, nothing more simple than the calculation; yet the perplexity, to which Reiske was reduced, is perfectly ridiculous; for, by jumbling the principal with the interest, and the rents with the value of the estate, and by adding together all the sums named in the whole paragraph, he makes the property of Stratocles amount to more than ten talents. "Verum fatebor enim, says he, ad
 " calculandum et omnes omnino artes mathe-
 " maticas invitâ Minervâ natus sum." He then attempts a correction, but, finding even that irreconcilable with the computation which follows, he concludes in despair—"ut brevis
 " sim, in componendis hisce rationibus pecuni-
 " ariis exitum non reperio."

258. The Lacedæmonians would consider such an expedition as a breach of the peace] This was, probably, the general peace concluded in the third year of the hundred and third Olympiad, and broken the next year in the ar-

chonship of Chio. The Macartatus, against whom Demosthenes composed his speech, was the son of Theopompus, mentioned in the preceding page, who was appointed to preserve the name and family of the bold adventurer, his maternal uncle.

268. When I commanded a galley in the archonship of Cephifodotus.] That is, in the third year of the hundred and third Olympiad; but if *Cephifodorus* be the true reading, as Sylburgius was inclined to believe, this speech must have been composed either during the social war, or after it; and Isæus must have had the happiness of seeing his pupil advance towards the perfection of eloquence; for the oration against Leptines was delivered nearly at the same time. It appears from Harpocration, who cites three lines from this speech, that the citizen, who asserted the freedom of Eumathes, was named Xenocles.

A
COMMENTARY
ON
ISÆUS.

THE ten speeches of Isæus are the most ancient in the world on the interesting subject of legal and testamentary succession to property, except, perhaps, that of Isocrates on the estate of Thrasylochus in Ægina, which has rather the air of a rhetorical exercise than of a real address to a court of judicature, and tends very little to elucidate the topics, which it is now my intention to discuss; next to these in order of time on the same subject are two speeches of Demosthenes, one against Leochares, and the other against Macartatus; from the second of which I have received so much light, that, if it had not been extant, I should not have understood many passages in my author. It was my first design to subjoin at full length this very cu-

rious monument of Athenian jurisprudence; but, as the speech consists chiefly of depositions and recitals of various laws, which give it very much the resemblance of a well drawn brief, I think it better to sum up the evidence in the cause, with such observations as will render it perspicuous, and to illustrate the whole with a complete pedigree of the family, which will also be useful in explaining other parts of the Attick law. Demosthenes himself had intended, as he tells the court, to draw a genealogical table for their inspection; but, reflecting that those jurymen who sat at a distance would be unable to have a distinct view of it, he thought it necessary to explain it by words, which all of them might hear: what Demosthenes chose to omit, I have performed with great care for the convenience of the reader; and here we may take notice of the advantage which justice derives among us in similar causes from the facility of multiplying copies; for, as a number of pedigrees may be printed at an expense not to be considered in important trials, the court, the jury, and the bar, may easily go along with the leading counsel, and form a perfect idea of the question before them. The difficulty, indeed, of explaining a long genealogy by words alone, especially where many of the persons bear exactly the same name, together with the number

of mistakes occasioned by the negligence of copyists, made the speech against Macartatus so dark and perplexed, that the learned almost gave it up as inexplicable; and, when Oporinus complained to Wolfius that he could not comprehend the whole of his Latin version, "Do you," said the translator, "understand the Greek?" "No," said the other. "Then," replied Wolfius, "we are even; and we shall, I believe, have many companions in our ignorance." The grave editor's remark, that, "although the speech take its title from *Macartatus* or *most happy*, yet it makes the interpreter *most miserable*, and although it relate to the inheritance of *Hagnias*, a name significative of *purity*, yet the text of it is by no means *pure*," may show with how bad a grace a scholar attempts to be witty. I confess, that the whole composition appeared to me more obscure than the oracles which are cited in it; until I perceived, before I had even seen the Leipzick edition, that the tenth speech of Isæus was delivered in a previous cause concerning the same estate; that it was composed by the great master in defence of the very Theopompus, whom his illustrious pupil afterwards attacked so vehemently; and that the two speeches, though each of them apart was extremely dark, reflected so strong a light on each other, that both became perfectly lu-

minous. The account, which I shall now give, of the numerous family, in which such causes arose as employed the first advocates of Greece, will include a commentary on both their speeches, and necessarily comprise an explanation of several heads in the laws of Solon.

BUSELUS, a burgher of Œon, was father of five sons, among whom he distributed his property; and they became the heads of as many distinct branches, which continued to flourish and spread themselves, till HAGNIAS died childless, and, though an attempt was made to prove the contrary, intestate. His fortune was not much more than six hundred pounds; but no fortune ever gave birth to so much litigation, and, consequently, to so much knavery. Two very different stories are told concerning the merits of the first claimants; one, which the reader will recollect, by Isæus in the person of Theopompus, and another by Demosthenes in the person of Sositheus, who married Phylomache, the second of that name. If we believe Theopompus, who does not appear in a very favourable light, Hagnias actually made a will in favour of his niece, with a substitution to Glauco after her death; but he gives no particular account, how Phylomache, if the will was valid, was able to obtain a sentence against Glauco, and to dispossess him: Sositheus, on the

other hand, asserts, that the will was proved to be a forgery, and that the whole was the contrivance of Theopompus himself, who gave the principal evidence for Glauco, and a brother of his, named Glaucus. It is agreed, that Theopompus afterwards commenced a suit against Phylomache, and succeeded in it; but Isæus ascribes his success to the superiority of his title, while Demosthenes imputes it to an artifice by which the jury were circumvented; for he avers, that the two half-brothers of Hagnias, designing to assist Theopompus in their turn, joined with him and one Eupolemus in claiming the estate; that the archon, therefore, permitted the claimants to speak four times as long as the defendant, for each of them had the same quantity of water in his clepsydra: that the confederates gave false evidence for one another, and told a number of gross lies, which Phylomache's advocate had not time to refute; that the jurymen were perplexed and divided; but that Theopompus gained his cause by a very small majority.

The next suit, which the fortune of Hagnias produced, was the information against Theopompus, for whom Isæus wrote his tenth speech; and in that also (whether justly or not we shall afterwards examine) he had a verdict in his favour; for, after his death, we find his son, the younger Macartatus, in possession of the dis-

puted estate ; and it is he, against whom the husband of Phylomache set up a claim for the third Eubulides : what was the event of this last suit, it is impossible to discover with certainty ; but, in order to fix with tolerable accuracy the respective merits of all the claimants, I shall recapitulate the Athenian laws of inheritances and devises, comparing them, as I proceed, with those of some other nations, ancient and modern, and shall thence take occasion to illustrate the nine preceding speeches of Isæus.

I shall first review the laws of heirship by proximity of blood ; and, secondly, the laws of heirship by appointment, which was either by adoption during life, or by testamentary disposition ; and, under the last head, I shall consider first how wills were made at Athens, and next how they were revoked.

I. Had Hagnias died leaving only male issue, his sons would have taken equal shares of his inheritance, like heirs in gavelkind ; a law no less favourable to that just balance of property which Solon meant to establish, than the law of primogeniture is agreeable to the military aristocracies, in which it has prevailed ; but there was another principle in the Athenian government, which, without counteracting the spirit of equality, kept the partibility of estates within proper limits ; for, as the most expensive offices

were filled by men of a certain census, it was highly expedient that there should always be a number of citizens moderately rich, who might contribute to the publick charges, without being too much elevated by opulence above the common level. Hence proceeded the complaints against men, who had dissipated or aliened an estate, out of which galleys used to be furnished, and entertainments provided.

Thus, in the sixth speech, Thrasyllus urges with vehemence, and even calls witnesses to prove, that the fortune of Apollodorus, which was known to have contributed largely to the naval expenses, had been reduced to nothing by the negligence and profusion of his adversaries; and he afterwards declares the duty of a good citizen to consist in preserving his estate, and in paying his contributions with alacrity: so, in the tenth, Theopompus guards against any suspicion of having aliened a certain farm with a view to an exemption from serving the publick offices; and, in the third fragment, the guardian censures his ward for having sold and dispersed his patrimony, which he might have rendered serviceable to his country and honourable to himself. Now, as these accusations were attended with very serious ill consequences to those who deserved them, as most of the Athenians were animated by a true spirit of pa-

triotism, and as a gentleman, proud, poor, and idle, was a monster unknown in their state, I cannot help considering the law of partible inheritances as not only the most natural, but at Athens even the wisest, and the law of primogeniture as a great evil introduced into some countries for the prevention of greater. It were superfluous to add, as the subject has been exhausted by others, an enumeration of the many illustrious nations, who have shown no preference to the first-born, or to discourse, after Selden and the Misna, on the double portion of the Hebrews; but it may be necessary to observe, that the succession *in stirpes* prevailed, most probably, at Athens in the descending line, as it certainly did in the collateral: thus, had Buselus died worth five talents, leaving his sons Cleocritus, Stratius, Hagnias, Habron, and the children only of his son Eubulides, each of the four sons would have taken one talent, and Philager, Euctemon, Callistratus, representing their father, would have succeeded to twenty minas each. This would have occasioned a subdivision of the fortune left by Buselus; but the industry of his grandsons, incited and rewarded by the spirit of the constitution, would soon have raised their property to a just height, as a well almost exhausted by too large draughts is quickly and plentifully supplied by the spring.

II. If Hagnias had left issue male and female, the sons would have taken equal shares of his estate, but must have assigned suitable portions to their sisters : thus if Sositheus had died worth three talents, Eubulides, whom he had emancipated, would have been entitled to no part of them, but Sofia, Menestheus, and Callistratus, would have received each a talent, and must have contributed to their sister's fortune ; and thus, on the death of the first Hagnias, his only son Polemo would have inherited his whole estate, but must have given Philomache in marriage with a portion conformable to his inheritance : what share of it was in this manner transferred to the sisters, I cannot determine ; but am inclined to think that the assignment of it was left to the affection and liberality of the brothers. It was reckoned highly disgraceful to be ungenerous on these occasions ; and, in the speech on the estate of Aristarchus, the complainant recommends himself to the favour of the jury, by informing them, that, *although his possessions were inconsiderable, he had given his sister in marriage with as handsome a portion as he could spare.* Besides, a suspicion of illegitimacy was cast upon girls, who were married with a small fortune in proportion to the estate of their fathers ; thus, when Pyrrhus left three talents, and his daughter Phila was taken by

Xenocles with a thousand drachmas only, there was great reason to believe, and Isæus warmly contended, that her husband knew her to be illegitimate, since he married her *without even a tenth part of her paternal estate*: but here I cannot help dissenting from *Perizonius*, who seems to have collected from this passage, that the tenth part of the inheritance was the usual portion given to sisters among the Athenians, as it was among the Hebrews; for I find no trace in the other speeches of any fixed rule; and even, in the very cause to which I have just alluded, *eighteen* minas, or the tenth part of three talents, would have been thought a moderate portion out of an inheritance, which at Athens was esteemed considerable; but Phila had not near so much; and it happened, that the fortune of a thousand drachmas, which she received from her brother by adoption, was exactly the *νοθεῖα*, or *bastard's part*, which was usually allotted to an illegitimate child. It is probable, that the portion was often adapted to the circumstances of the husband; for twenty minas were given to Stratocles, and as many to Theopompus, with their respective wives, whence the latter proves the scantiness of his own fortune, urging that *so small a sum would not have been given to a man of large possessions*; and the husband, indeed, was commonly bound in the *προικων*, or *marriage*

settlement, to assign a part of his own estate of equal value at least with the portion, as a security for its being restored to the person who gave it, in case either of a divorce, or of the wife's death without issue; and the property thus settled was distinguished, like all other hypothecated estates, by small columns and inscriptions, called *ὄροι*, erected on the land, or affixed to the houses, and containing a specification of the sum for which they were pledged. This method, which resembled the *donatio propter nuptias* of the ancient Romans, appears more simple than our modern *settlements*; and, as the Athenian ἀπορρημύματα or *hypothecations* were open and notorious, like our old feoffments, they seem to have provided for the issue of the marriage no less effectually than the estates in strict settlement so strongly tied by our conveyancers; but, as to the fortunes of daughters, our trusts and long terms, over which our courts of equity have so ample a jurisdiction, secure a provision for them with more determinate exactness than the law of *Athens*; where however it is reasonable to believe, that the Archon could compel the sons to assign competent portions,

In this place I cannot forbear mentioning an instance in our own law, where justice, reason, and fair analogy, are not yet, as I apprehend, completely disengaged from the shackles of feu-

dal strictness. The celebrated rule, that “where-
“ ever an estate of freehold is given to the an-
“ cestor, and a subsequent limitation is made, in
“ the same conveyance, to his *heirs* or the *heirs*
“ *of his body*, he shall take in the first case a
“ fee-simple, and in the second, a fee-tail,” has
certainly prevailed for near five hundred years ;
and, as it is not only venerable on account of
its antiquity, but has been the basis of most ti-
tles in the kingdom, let us hope that it will pre-
vail for as many centuries more, without caring
whether it was originally contrived, that the lord
might not lose his wardship, relief, and other
profits of his feignory, or whether it was de-
signed to facilitate the alienation of property, and
to prevent the inconvenience of leaving the fee
in abeyance ; or, lastly, whether it only means
that, in general, those who take by the *name* of
heirs, must take in the *capacity* of heirs, that is
by descent, and consequently that their ancestor
must have a descendible estate. Whatever might
have been the reason of the rule (and each of
the just-mentioned reasons is supported by great
authorities), it could only have been a subsidiary
or suppletory rule, calculated to ascertain the in-
tention of parties, where other evidence of in-
tention was either wanting or doubtful ; but,
where the meaning is clear beyond a shadow of
doubt, that the persons described as heirs are not

to take in that quality, and especially where hardships and contradictions would follow such a construction, the rule ought in sense and reason to give way, or rather it ought not to be called in aid, when the intent is plain without it. Let us therefore suppose, that, in consideration of an intended marriage, the father of the wife settles an estate *upon the husband for his life, remainder to the wife for her life, remainder to the heirs of his body on her to be begotten*: no man can harbour a doubt of the intention to secure a provision for the issue of the marriage; yet what can restrain the parents from levying a fine or suffering a recovery? What can hinder the husband from aliening the estate, dissipating the money arising from it, like Xenænetus in the eighth speech of Isæus, and leaving his children in extreme indigence? Had articles only been made *before* marriage in the same words, or had there been both articles and a settlement referring expressly to them, equity would have made the husband tenant for life with remainder in tail to the issue; but, if there had been no executory agreement, and only a deed executed, I do not know that any court would interfere, or even incline to give relief on the ground of mistake, the parties having inadvertently used words, which carry an estate-tail, when they clearly intended a strict settlement; yet if the intent be

not indubitable, a court of equity ought not to depart from the technical import of the terms even in articles, and, if it be unquestionable, a court of law, one would imagine, ought to give it efficacy over artificial words, even in a deed; nor would respectable authorities be wanting, if this were the place for producing them, to prove, that “the words *heirs* or *heirs of the body*, are
 “not to be construed as words of limitation,
 “either in a will or in a deed, when the intention of the testator or of the parties is plainly
 “declared, or manifestly appears, that they shall
 “be construed as words of purchase.” This question, indeed, is not likely to arise on a marriage-settlement, in which it is usual to give estates for life to the parents, with contingent remainders in tail to the first and every other son, after the interposition of trustees to preserve them; but I have seen settlements in the form above supposed; and I thought this digression proper enough in comparing the laws of England with those of Athens, to which we will now return.

If the brother was an infant, and the sisters marriageable, it may naturally be imagined, that the guardian allotted their portions out of his ward’s estate; and we find, that the four daughters of Stratocles were married with handsome fortunes during the guardianship of their uncle

Theopompus: thus it appears, in the fourth cause, that Dicæogenes gave the sister of the complainant to Protarchides, with a house in Ceramicus worth forty minas; a large portion, if we consider the many shares into which the estate had been divided, and the inhuman conduct of Dicæogenes towards his cousins.

It may seem strange that the law of SOLON, mentioned by Plutarch, which prohibited the *φερνή* or *portion* (as it is commonly rendered), and ordained “that a bride should *bring* in marriage “no more than three robes and some utensils of “small value,” should in less than two centuries be fallen totally into disuse, especially as all Solon’s ordinances had been made perpetual after the archonship of Euclid by the law of Diocles; but, although the words *φερνή* and *προίξ* be generally used as synonymous, yet *Petit* with great reason supposes that they were different: the legislator could never have forbidden the latter, or the *fortune* given by heirs with their female relations, for which his institutions carefully provided; but, as the luxury of new-married women in apparel, trinkets, and furniture, had become excessive, he gave a seasonable check to it by restraining the *φερναὶ* or *bridal presents* to three robes and a few moveables. Thus, when Ciron gave his daughter to Naufimenes with twenty-five minas, *together with clothes and some*

little ornaments of gold, the money appears to have been the *προίξ*, and the rest, what was properly called *φερνή*; although the motive assigned by Plutarch for Solon's regulation, namely, that he would not have marriage considered as a vile traffick for gain, but as a contract founded on affection, and intended for purposes beneficial to the state, might have induced him to abolish or limit both the one and the other. At the same time I am aware, that the *ἐξώπροικα* of the more modern Greek jurists were, probably, the same with the *παράφερνα*, or *goods over and above the portion*, which are mentioned by Ulpian in the Digest, and from which our term *paraphernalia* is apparently borrowed; but, on the whole, I am persuaded that there was a distinction between the two words in the ancient Attick dialect. In some respects the *προίξ* itself resembled our *paraphernalia*, as it was not devisable by the husband, nor considered as his absolute property; but it had this further advantage, that it was not liable to the claims of his creditors, even on a deficiency of assets.

It will not be foreign from the subject, to remark in this place, that the customary law of the old *Arabians* obliged every brother to give his sister in marriage with a fortune; and that, in order to evade this law, it was usual among them to contract double marriages, one man

taking the sister of another without a portion, and giving his own sister in return on the same terms; but this practice, which they called *Shigár*, was declared illegal by Mahomed. The division of an inheritance enjoined in the fourth chapter of the Alcoran is very remarkable; it is there ordered generally, that *a male shall have the share of two females*; so that, by the Mahomedan rule, Charidemus would have had two thirds, and Phanostate one third, of the estate left by their father Stratius: for Selden is mistaken in supposing, that each would have succeeded to a moiety. Perhaps, this ordinance of the Asiatick lawgiver was more consonant to natural justice than that of Solon, who seems to have made the fortunes of Athenian women too vague and precarious.

III. Let us now put the case, that Hagnias had died leaving only female issue; the next of kin, who would have been entitled to the succession, had there been no children, might have claimed the daughters in marriage, together with their inheritance, of which their sons born in wedlock would have taken possession at their full age. If a son was left, as in the former case, his sister was called ἐπιτροικὴ or *portioness*; but a daughter, who had no brother, was distinguished by the name of ἐκκληρεῖα or *heiress*; and this I mention, because the latter word occurs per-

petually in the speeches of Isæus. Thus, in the ninth cause, when the daughter of Aristarchus, on the emancipation of Cyronides, and the death both of Demochares and her sister, became sole heiress, her father's brother Aristomenes, or, on his refusal, her first cousin Apollodorus, might have applied to the Archon, and obtained a decree for taking her in marriage; and, in the same manner, Phylomache, the only daughter of Eubulides, was claimed and married by Sositheus, whose title will appear in a subsequent part of this commentary. The right of the nearest kinsman to marry the heiress was so firmly established, that even the act of her own father could not supersede it; and hence arose the most iniquitous and intolerable of all the Athenian laws, an odious remnant of the ancient institution, which Solon in part abolished, *that estates should remain for ever in the family of the deceased*; for we learn from the second speech, that even if a father had given his daughter in marriage to a person whom he approved, yet, if he died without legitimate sons, the next of kin might take her from her husband and marry her himself, and Isæus mentions it as a known fact, that many men had by this law been deprived of their wives; but Petit was clearly deceived in imagining, that the same law prevailed, when the father had *devised* his

property together with his daughter; for in that case the next heir was wholly excluded. Yet farther; when the unjust guardian Aristomenes, in defiance of the law, gave his niece without her estate, and with *a portion only*, to the father of the complainant, and when her husband afterwards applied to her kinsmen for the inheritance, to which she was intitled, and which they illegally possessed, they compelled him to desist from his claim by threatening to dissolve his matrimonial union, and to demand his wife for one of them, as her nearest relation.

Nothing can be conceived more cruel than the state of vassalage in which women were kept by the polished Athenians, who might have boasted of their tutelar goddess Minerva, but had certainly no pretensions on any account to the patronage of Venus. All unnecessary restraints upon love, which contributes so largely to relieve the anxieties of a laborious life, and upon marriage, which conduces so eminently to the peace and good order of society, are odious in the highest degree; yet at Athens, whence arts, laws, humanity, learning, and religion are said to have sprung, a girl could not be legally united with the object of her affection, except by the consent of her *κύρις* or *controller*, who was either her father or her grandfire, her brother or her guardian: their *domination* over her

was transferred to the husband, by whom she was usually confined to the minute details of domestick economy, and from whom she might in some instances be torn, for the sake of her fortune, by a second cousin, whom probably she detested; nor was her dependence likely to cease; for we may collect from the speech on the estate of Philoctemon, that even a widow was at the disposal of her nearest kinsman, either to be married by him, or to be given in marriage, according to his inclination or caprice. Yet more; a husband might bequeath his wife, like part of his estate, to any man whom he chose for his successor; and the mother of Demosthenes was actually left by will to Aphobus, with a portion of eighty minas: the form of such a bequest is preserved in the first speech against Stephanus, and runs thus:—"This is the last will of Pasio the Acharnean. I give my wife Archippe to Phormio, with a fortune of one talent in Parrhethus, one talent in Attica, a house worth a hundred minas, together with the female slaves, the ornaments of gold, and whatever else may be in it." For all these hardships, which the Athenian women endured, a very poor compensation was made by the law of Solon, which ordered their husbands to sleep with them three times a month.

Whether the fairer, but weaker, part of our

species should, in well-ordered states, succeed to an entire inheritance, and dispose of it as their passion or fancy prompts them, may admit of some doubt; and we find on this point a remarkable diversity in the laws of different nations, and of the same nation in different ages; on which subject Perizonius has written a learned dissertation. The most ancient suit, perhaps, of which any account remains, was that instituted by the five daughters of Zelophehad, who died without sons, for *a possession among the brethren of their father*: they gained their cause; and it was thenceforth a rule among the Jews, that “if a man died, having no son, his inheritance should go to his daughter;” but when it was remonstrated, that, if Mahla, Noa, Hagla, Milca, and Tirza, were to marry the sons of other tribes, their inheritance would be taken from the tribe of their father, the divine legislator answered, *Let the daughters of Zelophehad marry whom they think best; only in the family of their father’s tribe let them marry*; and if Solon had made no other restriction, his ordinance would have been more conformable to nature and reason; but the narrow policy of keeping an estate confined in a single family can be justified by no good principle whatever.

The pagan Arabs, although divided into tribes, had no such restraint upon their natural

inclinations; for there is not a more common topick in their ancient elegiack poems than the separation of two lovers by the removal of the tents belonging to their respective tribes, which were not connected, like those of the Hebrews and Greeks, by any regular bond of union, but seem to have been distinct and independent communities: as their institutions, indeed, were perfectly military, they excluded women, who were unable to serve in their wars, from all right of succession to property; but *Mahomed*, like another Justinian, abolished this law of his countrymen, and ordained expressly, *that females should have a determinate part of what their parents and kinsmen left, whether it were little or whether it were much*, allowing a double portion to the males, *on account*, says he, *of the advantages which God has given them over the other sex.*

Among the early inhabitants of *Rome*, both males and females were permitted to inherit the possessions of their ancestors; and this appears to have been the law of the twelve tables, which were derived in part from the institutions of Solon; but the middle jurisprudence, departing from the old simplicity so favourable to legislation, admitted sisters only to a fraternal inheritance, and rejected all other female relations from the agnatick succession, as if they had been

perfect strangers, till the Prætorian equity mitigated this rigour by degrees; and Justinian, whose benevolence in this respect has been highly commended, restored the Decemviral law, with some additional directions of his own. The feudal law, like that of the old Arabians, and from the same principle of military policy, generally excluded daughters, unless there had been a special investiture of their father in favour of them; and it is almost superfluous to mention the strictness of the *Salick* feudists, who preferred one sex to the total exclusion of the other: our own laws observe a medium between their severity and the latitude of the imperial constitution.

IV. If we suppose that Hagnias had left neither sons nor daughters, but grandchildren only, some difficulties may arise in adjusting the division of his inheritance: there might have been grandsons alone, or granddaughters alone, or both grandsons and granddaughters; and if they had all been the children of one son or one daughter, I conceive that the three preceding rules are exactly applicable to these three cases; for it is certain, that, in the descending line, no distinction was made at Athens between a title conveyed through a female or through a male, as there was in Rome, till the new ordinances relaxed the ancient strictness. This appears

evidently from the second speech, where Isæus represents it as impossible for Endius to have been ignorant, that, had Phila been the only legitimate daughter of Pyrrhus, *her children would have succeeded to their grandfather's whole estate*; and this was the very title of Ciron's grandsons; for the writer of the Greek argument to the seventh speech was unquestionably mistaken in supposing the cause to be *strong in equity but weak in law*, and in imagining that the orator most artfully suppressed the rule concerning *the preference given to those who claim through males*; a rule which did not relate to lineal descendants, as we learn with certainty from the speech on the estate of Apollodorus: had the second Phylomache, therefore, died before her father Eubulides, her four sons and daughter would have been, on his death, in the same situation, as if they had been his children. We may next conceive, that BUSELUS had survived his five sons, and then died, leaving as many talents to be distributed among all their issue: it is probable, that *Oenante* would have taken, as heiress, the share of her father Cleocritus; and that the daughter of Habron also would have had one talent; secondly, that Charidemus and Polemo would have taken each a fifth part of the inheritance, giving marriage-portions respectively to their sisters: and thirdly, that the remaining ta-

lent would, as I remarked before, have been divided equally among the three sons of Eubulides; and thus, if Charidemus had been dead, the great-grandsons Theopompus, Stratocles, and Stratius would have received each of them a third part of his allotment, or twenty minas; and, had Polemo been gone, his talent would have descended to HAGNIAS with the same obligation to give his sister a fortune: in fact the inheritance of Hagnias was two talents and fifty minas, so that Buselus must have left fourteen talents and ten minas, or above three thousand pounds sterling, unless we suppose, that his son Hagnias, and his grandson Polemo, had augmented their fortune by diligence or parsimony.

I must here observe, that I have no certain authority for this succession *in stirpes* to a grandfather's estate at Athens: it is clear, indeed, from the sixth speech of Isæus, that *a daughter shared her paternal inheritance equally with a grandson by another daughter deceased*; but if the first Hagnias had survived both Polemo and Phylomache, I cannot see what claim Eubulides II. could have made to his property, except on a supposition, that the grandchildren succeeded *in capita*; for he could have gained nothing by representing his mother, who was herself no *heiress*, but a *portioness* only, and

would have been wholly excluded by her brother.

There is a difficult passage in the speech on the estate of PHILOCTEMON, which relates to the question now before us, and which seems to have been imperfectly explained by *Desiderius Heraldus*, whose *Animadversions on Salmasius*, although equal in virulence to the invectives of Milton, are a very rich mine of learning on the subject of *Attick* and *Roman* law. His words are these: “ The ἐπιδικασία or *contest for*
 “ *marrying an heiress*, took place, not only if
 “ one or more daughters were left without a
 “ brother, but also if one of them remained single, after their father had given the rest in
 “ marriage; as we may fairly collect from the
 “ speech of Isæus on the inheritance of *Philoctemon*, where it appears, that Euctemon had
 “ left several daughters, one of whom was unmarried, together with a son who survived him;
 “ and that a man, who called himself their
 “ nearest kinsman, claimed this daughter, whose
 “ share of Euctemon’s estate was become liable
 “ to contest. Now that Euctemon had several
 “ daughters, and that one of them was unmarried, is evident from the speech; and the following passage alludes to the ἐπιδικασία: *Ob-*
 “ *serve too the assurance of Androcles, who first*
 “ *claimed for himself the daughter of Euctemon,*

“ as if *ſhe* had been the heiress, and insisted on
 “ his right to a fifth part of the property, as if it
 “ had been liable to litigation, yet has now
 “ averred that Euctemon left a legitimate son.
 “ Has he not by this clearly convicted himself of
 “ having given false evidence? He certainly has;
 “ for, had a son of Euctemon begotten in wedlock
 “ been living, his daughter could not have been
 “ heiress, nor could the estate have been open to
 “ controversy. By these words he impeached
 “ the protestation of Androcles, who asserted
 “ the right of Antidorus to Euctemon’s inhe-
 “ ritance, as his legitimate son, but had himself
 “ demonstrated the falsity of his own averment,
 “ by claiming the unmarried daughter of the
 “ deceased as her next of kin, together with a
 “ fifth part of the estate (we must suppose that
 “ four daughters were married), which he could
 “ never have done, had a legitimate son of Euc-
 “ temon been alive; since, in that case, the
 “ daughters were excluded from the succession,
 “ and received portions from their father or
 “ their brother.” How plausible this appears!
 but Isæus expressly tells the court, that Eucte-
 mon had only *two* daughters, the widow of
 Chæreas, who had one daughter, and the wife
 of Phanostratus, who had two sons: now Er-
 gamenes, Hegemon, and Philoctemon all died
 without issue before their father, and we must

imagine, when we are examining the claim of Androcles, that the last of them had no son by adoption or will; in which case, if the wives of Chæreas and Phanostratus took as *daughters* and heiresses of Euctemon, each of them would have been entitled to a *moiety* of his fortune, or, if the second daughter had been also dead, her share would have been divided between Chærestratus and his brother; but I am inclined to believe, that they claimed as *representatives* of their three brothers, and it will presently be shown in the proper place, how the widow, whom Androcles demanded in marriage, might have had a right to no more than a *fifth* part of the inheritance.

V. In regard to the *melancholy succession*, as it was justly called, of parents to the possessions of their deceased children, there has been a great variety in the ordinances or customs of ancient and modern nations both in Europe and Asia. The Jewish law of inheritances depended almost wholly on the following rules, 1. The children of the deceased succeeded to his property, and, on failure of them, his father inherited. 2. The heir being dead, he was represented by his issue. 3. Males were preferred to females in equal degrees. If Sositheus, therefore, had been a native of Judea, his estate would have descended to his four sons, the eldest, *Sofia*, taking his double

share ; but if all of them had been dead without children, the daughter would have taken the whole ; the dying childless, the property would have ascended to *Sofia* I. the father of *Sofitheus* ; and his heir would have been traced exactly in the same manner ; that is, the brothers of the deceased would have succeeded as parceners, but the eldest would not have been entitled to a double portion : on default of brothers and their issue, the sisters would have been called to the succession ; and, none of them or their children being alive, the inheritance would have gone up to *Callistratus* the grandfather, if living ; or, if not, to his sons, the uncles of *Sofitheus*, and their issue, or, on failure of that line, to the aunts ; but, had they too been dead without children, and had the great-grandfather *Eubulides* I. been alive, it would still have ascended to him, or devolved upon *Philager* and *Euctemon* the great uncles, and the heirs of their bodies ; and they also failing, it would have been inherited by the other sons of the ancestor *Buselus*, and their descendants representing them, so as to be distributed, according to the stocks, among all the agnatick branches, the half-blood and the maternal relations being wholly rejected. These rules of descent, which are concisely laid down in the book of Numbers, and fully explained in the *Misna*, have the merit of extreme

simplicity; and are in truth no more than limitations to all the ancestors *ſucceſſively*, and the heirs male of their bodies, with remainders to their iſſue female, in the ſame manner as the children of the perſon deceased inherit his eſtate, but without the ſame regard to *primogeniture*.

At Athens, as well as at Jeruſalem, the mother was excluded from the inheritance of her ſon: this we learn from the ſpeech on the eſtate of Hagnias, where Theopompus mentions the claim ſet up for the *mother of the deceased*; a *relation*, he admits, *the neareſt of all by nature*; but not recognised by law among the degrees of *ſucceſſion*; and he prevailed, accordingly, by the ſuperior ſtrength of his title. There is, indeed, another part of the ſame ſpeech, which might lead us at firſt to imagine, that ſhe was only poſtponed to all the heirs on the paternal ſide, and that ſhe took an equal ſhare with a brother of the half blood; but the preceding paſſage is expreſs, that ſhe was not admiſſible to the inheritance; and it may be remembered, that ſhe bore a double relation to Hagnias, both as his mother and his ſecond couſin; for ſhe was the ſiſter of Stratius, and the *ſoror conſanguinea* of Theopompus himſelf.

The Decemviral law, which ſeems in this inſtance to have been borrowed from that of *Solon*, excluded mothers from the right of ſucceſſion

to their children ; but this rigour was mitigated by the lenity of the Prætors, who sometimes gave relief, on the ground of proximity, by their edicts *Unde Cognati* ; and Claudius Cæsar would not suffer a mother to be deprived of the small consolation, which the fortune of her deceased son could afford her. It appears from the speech of Cicero for A. Cluentius, that, by the municipal law of *Larinum*, a borough-town of Italy, the possessions of Avitus would have gone to his mother Saffia, if he had died intestate ; but the law of the twelve tables prevailed at *Rome*, till after the subversion of the republick ; the amendment of that unnatural strictness was begun by the just-mentioned Emperor, promoted by the *Senatus consultum Tertullianum* in the time of *Hadrian*, and completed, with some reasonable restrictions, by the Justinianean code.

Our statute of distributions, which was penned by a civilian, and in some measure resembles the Roman law, gives the personal effects of intestate, who die without wife or issue, to his mother, as well as his father, in exclusion of their other children ; and the statute of James the Second, like the novel constitutions, ordained, that the mother should take an equal share with the brothers and sisters, and the representatives of them : but the principles of the feudal policy,

from which our system of real property was derived, made it impossible for lineal ancestors to inherit; and, although our Henry the First, like the Emperor Claudius, restored the right of succession in the ascending line, yet the old rigour still prevails in England, as the same rule, drawn from the same source, obtains also in France. Whether a similar maxim was adopted by the ancient *Arabs*, to whose military institutions it seems agreeable, I have no certain knowledge; few monuments of that people remaining, except their wild songs on the subjects of love and war; but *Mahomed* expressly ordered, that “even if a man left a child, his parents “should have each of them a sixth part of his “possessions; that, if he died childless, his mother should take a third part, or if he had “brethren, a sixth, after payment of his debts “and legacies:” as a reason for this ordinance he adds, “You know not whether your parents “or your children confer upon you the greater “benefit.” The succession of ascendants might have been repugnant to the very essence of feuds; but our laws would have been more natural, as well as convenient, if the transmission of all property had been directed by nearly the same rules, and the distinction between lands and goods had been left to philosophical analysts and speculative lawyers.

The maxim in *Littleton* prohibited only the *lineal* ascent of an inheritance; but at Athens the *collateral* ascendants also were excluded from the succession; and this appears to have been the reason, why, if no testamentary guardian had been appointed, the Archon usually gave the guardianship of the infant heir to his uncle, in conformity to the law of *Solon*, which directed that *none should be nominated guardians, who would inherit the estate on the death of the minor*; an ordinance, which confirms the wisdom of our common law. When the heir had several uncles, the magistrate chose one of them according to his discretion: thus *Dinias* was appointed guardian to his nephews, the 'grandsons of *Polyarchus*; for, although on failure of their paternal and maternal kinsmen within the limited degrees, he might by possibility have succeeded *jure agnationis*, yet so remote a contingency was not considered; and guardians are expressly named by the old grammarians among the *ἄνευσαι* or *distant relations*, by whom *Phænops* complains in *Homer* that his possessions would be divided, since his two sons, *Xanthus* and *Thoön*, had perished in battle. *Aristomenes*, for the same reason, was nominated guardian to his brother's children; and here we may take occasion to illustrate or correct the rule as to the marriage of heiresses to their nearest kinsmen,

who, if they had not been living, would have inherited the estate; for the orator says, that Aristomenes had the option *either to take his niece himself* or demand her in marriage for his son; since if she had been dead, the fortune of Aristarchus would have devolved upon him, Cyronides having been previously emancipated: but no small difficulty arises from the second speech, in which it is said more than once, that, if Phila had been a legitimate child, and neither of her cousins would have married her, she might have been claimed by Lyfimenēs, or Pylades, or Chæron, who, if they were the maternal uncles of Pyrrhus, as I first imagined, could not possibly have been his heirs, and, if they were his paternal uncles, must have been postponed to all his kinsmen, as far as the second cousins, both on his father's and on his mother's side; so that we must suppose, either that he had no such kinsmen, or that the rule before laid down is erroneous, and that an heiress might be claimed by her relation in the *nearest degree*, whether he could have inherited the estate or not.

The perpetual exclusion of the maternal uncle from the right of succession, would naturally induce the Archon to appoint him guardian to his sister's son; but if any just exception could be made to him by the mother herself or any other friend, he might certainly be superseded:

thus Diocles, a man accused of the blackest crimes, obtained the guardianship of his nephew, by intimidating his sister, and preventing her from opposing his claim ; but Thudippus, who had been at variance with his brother Euthy-crates, and was even suspected of having occasioned his death, was not thought a fit person to manage the affairs of young *Astyphilus*, whom the magistrate therefore committed to the care of his father-in-law Theophrastus.

In the fourth speech we see this delicate and important office given to Dicæogenes III. who most infamously abused his trust, and who, if his father Proxenus was really uncle to the deceased, must have been *proprior sobrinus*, or *oncle à la mode de Bretagne*, as the French express that relation, or *Welch* uncle, as we sometimes call it, to his ward Céphisodotus and the other complainants ; whence it may be inferred, that he was not within the degrees of succession ; but this point I cannot determine with positive certainty.

Among other articles of a guardian's duty at Athens, he was required by the law to let the estate of the minor to the best advantage, taking good security from the lessees for the payment of the rents ; for which purpose the guardian presented a *petition*, and a jury was chosen to establish by their verdict the propriety of the

transaction : but a very remarkable passage in the fifth speech of Iſæus, shows how negligently this duty was performed ; for, when the associates of Alce, who had a complete ascendant over old Euctemon, falsely set forth in their petition, that her two bastards were the adopted sons of Philoctemon and Ergamenes, and that they were testamentary guardians of the infants, praying that their estates might be let to farmers, the court not only neglected to call for proofs of those allegations, but proceeded as of course, and would actually have delivered the property of Chærestratus to a vile set of impostors, if some of his friends had not seasonably been informed of the confederacy. It is probable, indeed, that, when the proclamation was made, the crier called upon all persons interested, to show cause why the land or houses should not be let ; but they should have had longer notice ; and the whole passage is so difficult, that the more I reflect on the nature and consequences of such a conspiracy, the less I understand, how it could ultimately have availed the conspirators ; nor is it possible, that such a transaction could long have been kept secret at Athens, where so flagrant an insult on publick justice would have been punished with the last severity. *Heraldus*, who of all modern jurists has made the best use of Iſæus, comments at

large on this passage, but expresses some little doubt of its true meaning: his interpretation, however, coincides in general with mine; and I incline to agree also with Petit, who conceives that the estates of minors were let in the month of September, or the beginning of the Attick year, when the old leases usually expired; at which time, as he asserts, the courts of justice were supplied with their proper *complement* of jurymen, whence he explains the words of my author, "as soon as the courts were full," which Heraldus translates, *proximis judiciis et frequenti foro*. I may add, that a sentence in the eighth book of *Pollux* favours the notion of Petit; but the investigation of these minute points belongs properly to notes.

It appears from many passages of my author, as well as from the elegant speech of Lyfias against Diogiton, and the known case of Demosthenes himself, how frequently and scandalously the Athenian guardians injured their wards: thus Archedamus, who assisted APOLLODORUS as his advocate and adviser, gained two decrees by a great majority against Eupolis, who had defrauded his nephew of above six hundred pounds; while the conduct of Dicæogenes and of Diocles was still more iniquitous. At the age of sixteen a ward might compel his guardian to account by a suit^h brought in his

own name; and Demosthenes proceeded against Aphobus in his seventeenth year; but it seems to have been doubtful, whether, during his minority, he could have maintained a civil action against his guardian for an estate, to which he was entitled; for, when Theopompus complained that he was cruelly and unnecessarily harassed with an *εἰσαγγελία* or *publick prosecution*, and urged, as an argument in his favour, that the friends of young Stratocles had not regularly claimed his moiety of the inheritance, they answered, that a *minor could not bring a civil action against his guardian*: this he denied, and challenged them to produce the law, by which such an action was forbidden; nor does there seem, indeed, any good reason for such a prohibition. Had it been really as they contended, yet Theopompus intimated an ingenious mode of obtaining justice: “let a petition, says he, be presented to the Archon, that the estate may be let to farm, and then will the lessee have a right to commence a suit against me, if I refuse to give him possession.”

VI. As Hagnias in fact died childless, his brothers, the sons of Polemo, would have inherited his possessions together, and their children would have succeeded *to the shares of their fathers*, by the express words of Solon, to the exclusion, I imagine, of the sisters; and, if none of his bro-

thers or their children had been living, the sisters would have been called to the succession; but, as the legislator has not said that the children of sisters should succeed to the shares of their mothers, it is natural to conclude, that they took *in capita*; and this is the only way, in which I am able to solve the difficulty in the speech on the estate of Philoctemon, where it appears, that Androcles claimed the widow of Chæreas with a *fifth* part of the inheritance; for she would have been entitled to a greater share as heiress either of her father or of her brothers, unless we suppose, that the property of Euctemon was divided in equal proportion among the *two* sisters and their *three* children. Had Phanostatus and his wife been dead, leaving only one son, and had the other sister been single or childless, the estates of her brothers, dying intestate and without issue, would have gone in moieties to Chærestatus and his aunt, according to the case of Thrasymbulus, who took an equal share with the wife of Pronapis, of the fortune left by his uncle the son of Eupolis; but it seems probable, that if the wife of Æschines had been alive, she would have been entitled to a *third* part of the inheritance.

Thus, on the death of DICÆOGENES, his four sisters and all their children seem to have had a title to equal portions of his estate; for

Menexenus and Cephisodotus are said expressly to have claimed the same share with their cousin, who spoke in the cause, and *whose* sister (for I adopt the emendation proposed by Reiske) is also said to have been entitled equally with her mother. These rights were variously blended by the intermarriages of the first cousins; and here it may be observed, that a brother was permitted at Athens, as we learn from the seventh speech of Isæus, to marry the daughter of his father, not of his mother; but I recollect no Athenian law by which a man was restrained from marrying the sister of his wife, a contract forbidden by the Alcoran, and commonly supposed to be prohibited by the eighteenth chapter of *Leviticus*: my opinion on that subject, which I have had no reason to change, has already been made publick by my much-lamented friend Mr. ALLEYNE, whose virtues, learning, and talents promised no less honour to himself than advantage to his country. We might here enumerate thirty cases, in which the possessions of a person deceased were distributable at Athens to his sons or daughters, brothers or sisters, or their children, severally or in concurrence; but, if a distinction be made between those who claim through females and those who derive their title through males, the number will amount to ninety-six; and in all the possible cases, the

respective claims may, I think, easily be adjusted by the help of the preceding rules.

VII. I now proceed to the cousins of Hagnias, and must begin with remarking, that Solon made an essential difference between them and the lineal descendants of a person deceased, or his brothers and sisters and their children; for the preference to males and the issue of males was applied to cousins only, and *M. Auger* is certainly mistaken in supposing that nieces or the children of nieces were postponed to nephews or their sons. The grammarian, who wrote the Greek arguments to Isæus, fell into the same error; although the distinction is fully explained by the orator himself in the sixth speech; where he says, “that the law gives
“the sister and the sister’s son an equal share
“of their father’s and their brother’s fortune:
“but that when a cousin dies, or any kinsman
“in a remoter degree, the male relations are
“called to the succession before the female; for
“it is enacted, that males and the children of
“males, if any be living, shall be preferred, al-
“though they are less nearly related to the de-
“ceased.” The children, therefore, of *Ciron’s* daughter had a better title than his nephew, whether he was a brother’s or a sister’s son; and the fine reasoning of Isæus on that point was, indeed, as he intimates himself, almost super-

fluous; but the sister of Stratius II. who stood in the same degree of relation to Hagnias with Theopompus, was wholly excluded from the succession: thus, if APOLLODORUS had died without having appointed an heir, his estate would have descended to Thrasybulus, his first cousin once removed, in preference to the wife of Pronapis, who was nearer by one degree; but as he waived his right and admitted the adoption of Thrasyllus, the female cousin and her husband set up a claim to the inheritance.

The Attick laws preserved by Demosthenes, and the recitals of them in Isæus, mutually correct and explain each other: thus the law of inheritances in the speech against Macartatus is supplied by the opening of the speech on the estate of Hagnias; and the passage above cited from my author must be amended from the composition of his immortal pupil, by adding the words *provided that they belong to the same branch*; on which proviso the title of young Eubulides solely depended. *M. Auger* has translated this passage in the following manner: "males and the children of males shall have the preference, provided that they stand in the same degree, and be not farther removed;" but he unquestionably misunderstood it; and the article of *successions*, indeed, is the least perfect of any in his valuable work.

Few words in the Greek and Latin languages are more vague than those, which express the different relations of ἀνεψιότης or *cousinage*; but I must leave a precise interpretation of them to philologers, and be contented here with observing, that, in Isæus and Demosthenes, ἀνεψιοῖ always mean the sons of brothers and sisters, or *first* cousins, whose children, or the *second* cousins, were called ἀνεψιαδοὶ by the Athenians, and by the Romans, *sobrini*; which last relation both Eubulides II. by his father Philager, and the three sons of Charidemus, bore to Hagnias, whose property was in dispute. A first cousin *once removed* was also distinguished by the name of ἀνεψιαδῆς, or son of the ἀνεψιδῆς: thus Cleon and ASTYPHILUS were first cousins; and the son of Cleon was ἀνεψιαδῆς to the deceased, but not, I believe, conversely; although the sons of Astyphilus and of Cleon would have been reciprocally ἀνεψιαδοὶ to each other. The attentive reader must have anticipated my remark, that Cleon would have been heir at law to his first cousin, if his father Thudippus had not been adopted by another family; and this was the title of Hagnon and Hagnotheus to the estate of NICOSTRATUS: thus, on the death of Hagnias, the son of his aunt Phylomache was entitled to the succession; for, although he derived his relation to the deceased through a female, yet

Theopompus, who claimed wholly through males, *belonged to a different branch* or family, namely, to that of Stratius I.; and Wolfius, as Perizonius observes, was mistaken in supposing that Theopompus had the better title. Had a *brother* of Polemo, indeed, left a son, he would have excluded Eubulides, and not only he, but *his* son too, *although in a remoter degree*, would have been preferred. On failure of first cousins and their children, the *second* cousins on the father's side were admitted to the inheritance, which they took, as in their own right, *in capita*; although the first cousins once removed would have taken *in stirpes*, as representing their fathers: so Theopompus, Stratocles, Stratius, Eubulides, and Menestheus, would have succeeded to *fifth* parts of the estate, the daughter of Callistratus being rejected, as well as Stratonides, the son of Oenanthe; but Theopompus, the only surviving second cousin, would have been entitled to the whole, if Eubulides had not borne a double relation to Hagnias, one part of which Isæus very artfully suppresses. As to the claim set up by the son of Stratocles, it seems to have been incapable of support; for, although there be some little variation in the different copies of the law, yet we may safely conclude, that the children of second cousins were not within the legal degrees of succession; and so the court at

Athens determined, for Theopompus died in possession of the whole fortune.

No second cousins being alive, the half-blood was admitted in the same order; that is, the brothers and sisters, nephews and nieces, on the mother's side, or, on failure of them, the first cousins and their children, and, lastly, the second cousins, but no farther; for, if no maternal kinsmen existed within those degrees, the *agnati*, or next of kin on the paternal side, were the heirs at law; and their proximity was traced by counting the degrees from the common ancestor: thus, if Theopompus too had been gone, the half-brother *Glauco* would have succeeded; or, he being dead without issue, the maternal first cousins or issue of Stratius II. and, perhaps, of Theopompus and Stratocles. I must here again mention a most difficult passage in the tenth speech, to which I before alluded. It is there said expressly, that, "if Glauco had relinquished
 " his claim, the *mother of him and of Hagnias*
 " might then have justly entered into litigation
 " for the property of her son; and, as she would
 " have disputed with persons by no means ad-
 " missible to the succession, she would clearly
 " have obtained a sentence for the moiety, both
 " law and natural justice conspiring in her fa-
 " vour." Now the mother of Hagnias was his second cousin on the father's side; and, as such,

would have been entitled to his inheritance on failure of *males* in the same degree, to the exclusion, as one would have imagined, of the half-blood: how then could her son Glaucó have claimed before her? What occasion had she to wait for a waiver of his right? Was a female paternal second cousin postponed to a *frater uterinus* by the words of the law, which gave a preference to males? The more I consider this passage, the more it perplexes me; and I have not yet found any satisfactory solution of the difficulty.

I will close this section with observing, that, if the preceding interpretation of the laws be right, and males were only preferred *in the same branch*, the title of the second Phylomache was better than that of Theopompus, who must, therefore, as Demosthenes asserts, have gained a verdict in his favour by some contrivance or surprise.

VIII. I have all along proceeded on a supposition that the heirs of a person deceased were *legitimate children*, who are defined by the first Attick law to be those *born in wedlock of a woman duly betrothed*; but the thirteenth law, which excluded bastards from *the succession to sacred or civil rights*, must have been re-enacted after the time of Solon, who was appointed legislator one hundred and eighty years before the archon-

ship of Euclid. We have already observed that his laws were made only for a century, and, though they were all perpetuated by Diocles, yet that concerning *bastards* is said to have been revived by *Pericles* and *Aristophon*, who added to the definition of legitimacy, that *both parents must be citizens*; and this point we see carefully proved in the fragment of the speech for Euphiletus. The laws of the Greek islands, however, seem to have differed in this respect from those of Athens; for in Ægina, as we learn from Isocrates, the illegitimate sister of Thrasyllochus instituted a suit against his devisee, who, instead of resting his defence on her inability to inherit, was satisfied with proving the will, and discoursing at large on the friendship which had subsisted between him and the deceased.

I come now to the second part of my commentary, in which I proposed to explain the modes of *appointing* an heir among the Athenians, on failure of *natural* heirs or lineal descendants.

I. Frequent mention is made by the Grecian orators of *desolate heritages*, as they are called by ISAAH: now a family was considered as *ἐρημωμένον* or *become desolate*, when the last occupier of an estate left no son by nature or by appointment, who might perform holy rites at his tomb, preserve his race, and, by transmitting his

name to a perpetual chain of successors, confer on him a kind of immortality. As this idea must have been extremely pleasing to men, whose views of a better life were rather faint glimmerings of hope than well-founded expectations, they were very early indulged with the power of *adopting* sons: hence, as Isæus observes in the sixth speech, “all they, who thought their end approaching, took a provident care that their families might not become extinct; and if they had no heirs by birth, yet they left sons at least by adoption.” The preservation of names might have been one reason for the preference given to males in the Attick laws of succession; and it is very remarkable, that, both in Hebrew and Arabick, the word for a male implies *remembrance*, and that for a female, *oblivion*; but this distinction would not have existed, if it had been enacted, that the husband of an heiress should either assume the name of her ancestor, or give it to one of his sons: even in our own country, and in very modern times, we see a number of devises to men *on condition* that they take the names of the devisors, or to women, *provided that* they marry persons of a particular name; such has been the fondness of mankind, in most ages and nations, for the jingle of empty sounds! At Athens children were named on the tenth day after they were born,

as on the *lustrical* day of the Romans; and male infants, as we see in the pedigree of Hagnias, usually received the names of their grandfathers, or some compounds of them, a method recommended in the laws of Plato. Thus one would have thought, that the son of Oenanthe should have been called *Cleocritus*, and that the name of *Stratonides* should have been given to a grandson of Stratius; but parents were at liberty to impose names as they pleased; and Sositheus in Demosthenes mentions the motives which induced him to call his four sons, Sofias, Eubulides, Menestheus, and Callistratus. Female children also were frequently named after their grandmothers: thus the name of Phylomache descended to her grand-daughter; and the uncles of PYRRHUS asserted, that he gave his daughter Phila the name of his own mother *Clitaretæ*, which would have been a strong argument for her legitimacy. This custom was useful in keeping the branches of a family distinct, especially as males were preferred only in the same branch; and it was forcibly urged against Theopompus, that neither his brethren nor his ancestors bore the name of *Hagnias*, or of *Eubulides*, nor any similar to them, such as Hagnon, Hagnotheus, or Eubulus; while the other two branches were equally clear of any name like that of Stratius, from whom he descended: it may be worth

while to add, that a change of names often took place at Rome, as M. Brutus, who had been adopted by his uncle, is named Q. Cæpio Brutus in a decree of the senate; but it was usual, on some occasions, to alter the termination only, as Octavius, after the death of his adopter C. Cæsar, was called *Octavianus*; and, for a similar reason, one of Cicero's letters is addressed to T. *Pomponianus* Atticus.

The publick interest also was greatly concerned in preventing the desolation of heritages; for it was expedient, that estates, which contributed to defray the general expenses, should be preserved as long as possible; and this mode was preferable in a free government to the laws of escheats and fiscal claims to vacant inheritances: hence we find, that SOLON directed the chief magistrate to prevent the total extinction of families; and hence, if a man died intestate and childless, it was incumbent on the next heir to emancipate one of his own sons or near relations, and appoint him, by a kind of adoption, son to the deceased, together with his name and a considerable portion of his estate. Thus, on the death of Apollodorus the son of Eupolis, one of his sisters ought to have given her own son both his name and part of his fortune; but, as this duty was neglected by the wives of Pronapis and Æschines, their first cousin

took care to adopt Thraſyllus, whiſt he lived ; and the ſpeech on the eſtate of APOLLODORUS is ſo clear and full a commentary on this method of adoption *during life*, that it were quite ſuperfluous to write more diffuſely on the ſubject : a few obſervations, however, may be added without impropriety.

Both at Athens, as we learn from Iſæus, and at Rome, as A. Gellius informs us, an adopted ſon acquired all the rights, both ſacred and civil, and ſucceeded to all the advantages and burdens, of the new family into which he was introduced ; nor was he conſidered in any other light than that of a ſon by nature born in lawful wedlock, whence the orator aſks, “ how Philoctemon could have died without a child, when “ he had actually adopted his nephew ;” but all pretenſions whatever to the inheritance of his natural father were wholly loſt by adoption or emancipation : thus Cleon was firſt couſin to ASTYPHILUS, but as his father had been adopted by another perſon, he no longer bore any relation to the deceased ; yet, if Thudippus had left a ſon in the houſe of his adopter, and returned, as he lawfully might, into his ancient family, and if Cleon had been born after that return, either he or his ſon would have been heir to Aſtyphilus, in preference to the half-brother. A maternal inheritance, indeed, was not

lost by adoption; for the father only was changed: so, when Thraſybulus was adopted by Hippolochides, he still retained and asserted his title to the estate of his mother's brother, a moiety of which he actually received; and he would have taken, as male cousin, the whole fortune of Apollodorus, if the adoption of Thraſyllus had been illegal.

When the adopted son died without children, and consequently without having returned to his natural family, the possessions of the adopter descended to his right heirs; as, on the decease of Endius, the sister of PYRRHUS demanded and obtained his estate, the illegitimacy of Phila and the legality of the adoption being clearly proved: had Phila been legitimate, it appears from the pleadings in the cause, that an adverse possession of *twenty* years would not have barred her title; and we must suppose, that the limitation of *five* years related only to actions brought, and not to *protestations* or *entries* made by lineal descendants, who took possession, if they pleased, without instituting a suit for their inheritance. The speech of Demosthenes, in the cause between *Aristodemus* and *Leochares*, contains a great deal of curious learning concerning adoptions; for the principal question was, *whether an adopted son could himself adopt another*, and the argument of Demosthenes, who maintained

the negative, was in substance this: “An adopted
 “son cannot *devise* the property acquired by
 “adoption, for Solon gave the power of devising
 “only to *unadopted* citizens; he cannot, there-
 “fore, by *adopting* a son, give him a right to
 “the same property, for a devise is in fact a
 “species of adoption, and both kinds were pro-
 “hibited together; besides, there cannot be two
 “adopted sons at the same time; and the law
 “permits the return of the first in one case only,
 “that is, when he leaves a legitimate son of his
 “own in the family of the person who adopted
 “him.” As to the other question, *who was heir*
at law to Archiades, there was no kind of diffi-
 culty in it; for the complainant descended from
 a brother, and was therefore preferred by the
 express words of the law to the issue of a sister;
 but how Aristoteles could be considered as heir
 to Leocrates, who was related to him in the
ninth degree of the civilians, I am at a loss to
 determine: there are many other dark passages
 in the speech, which I leave to the interpreters
 of Demosthenes, it being my sole business at
 present to illustrate Isæus. One thing only I
 may remark with *M. Auger*; that no objection
 was taken to the adoption of Leocrates, because
 the supposed adopter had never been married;
 and I at first thought with him, that *the adopted*
son must necessarily have been a genuine citizen;

but the fragment in defence of *Euphiletus* seems to prove, that foreigners were sometimes adopted, unless we suppose, as I think we may, that *Isæus* was there speaking of *supposititious*, not of adopted, sons. The true end and essential conditions of an adoption at *Rome* are explained with admirable perspicuity by Cicero, in his noble speech *for the restitution of his Palatine house*, in which he proves that *Clodius* had been illegally adopted: it appears from that whole business, that a Roman, properly qualified in other respects, might adopt a man of a different rank from himself; but such an adoption, it seems, was forbidden by the laws of *Ægina* and *Siphnus*, either during life or by testament, whence *Isocrates* takes pains to show, that the devisee of *Thrasylochus* was *a citizen inferiour to none of the Siphnians*, and educated in the same manner with his friend.

II. The power of devising property, which *SOLON* introduced at Athens but two hundred years before the birth of *Demosthenes*, is next to be considered; and the preceding speeches evidently show how much litigation and imposture followed the introduction of it; an objection, indeed, which lies in some degree against the laws of succession; for, when *NICOSTRATUS* was dead, there appeared no fewer than seven false claimants of his estate by a variety of

fictional titles. I cannot ascribe the destruction of Athenian liberty to this alteration made in the ancient law, and am inclined to doubt the *fact* of its having produced excessive wealth in some citizens, whilst others were impoverished: there are many instances in the Greek orators of persons, who had succeeded, as heirs, to several estates; but the disadvantages and odium, which attended an excess of riches, were considerably greater at Athens than the benefits or pleasure arising from affluence. Various causes contributed to the subversion of the Athenian state: had Philip never existed, or been less ambitious, had Hyperides and Demosthenes understood the art of war as well as that of rhetoric, had the gold of Persia and Macedonia been less powerful, and the abettors of tyranny less assiduous, Athens might have continued to flourish in splendour and freedom, whether Solon's institution had taken place, or the former strictness had prevailed. Plutarch, indeed, whose judgment is highly to be respected, ascribes the decline of the Spartan government to a similar relaxation of the old severity by the law of *Epitadeus*, which permitted a devise of lands or goods from the natural heir, in opposition to the ordinance of LYCURGUS, which prohibited any alienation of them; and he imputes even the proposal of such a law to a motive of resent-

ment or of covetousness ; for *Epitadeus*, says he, was a proud seditious man, and had quarrelled bitterly with his own son ; but the permission given by him to alien an estate at all, and not merely to leave it by will, was the evil of which the historian complains ; for, when most of the inheritances in Lacedæmon had been transferred from the lawful heirs, there remained only seven hundred genuine citizens, among whom not more than one hundred were in possession of lands : yet, if the Athenian silver had not found its way into *Sparta*, the law would have been innocent, although less expedient in a military, than in a commercial, nation.

Whether the law of Solon was politick or not, it had the merit of conciseness and simplicity, and the student may not be displeased to compare it with the statute of our Henry the Eighth, who certainly was not a Solon : but it would be foreign from my design to discourse upon it at large, much less to subjoin a treatise on devises, or to analyse every word in the well-known definition of *Modestinus*. So many books have been written upon wills by civilians and common lawyers, that the subject is almost exhausted, and the passages in my author, where mention is made of them, are so clear as to require very little explanation : it will be sufficient, therefore, to conclude this commentary, as I at

first proposed, with a few remarks on the execution and revocation of an Athenian will. I have already observed, that the *appointment* of an heir by a man's last testament was regarded at Athens as a mode of *adopting* a son; and of this testamentary *adoption*, for so the Greek orators call it, we have several examples in Isæus: thus the devise of *Philoctemon* is treated all along as an adoption; but his power to devise or adopt in the lifetime of his father is somewhat questionable, since in fact he nominated a representative of himself as son of Euctemon. His power, however, being admitted, let us examine the manner in which it was exercised. We may take notice, in the first place, that, although *Cato the Censor* repented of his having passed *a single day without a will*, yet the old Athenians were not so provident; for they commonly deferred the execution of their wills, till they were impelled by the apprehension of some approaching danger: thus, when *Apollodorus* was on the point of sailing with the army to *Corinth*, he left his estate, in case of his death, to the daughter of *Archedamus*; and it was argued by the son of *Theophrastus*, that, since *Astyphilus*, who was a soldier by profession, had made no will before his campaigns in the *Corinthian* and *Theban* wars, it was very improbable that he should have chosen to make one, just before his advent-

ture to *Mitylene*, in which he was less exposed to peril. Theopompus also, whose business it was to insist, that *Hagnias* had devised his fortune to Glauco, mentions, as a reason why he devised it at all, that *he was preparing to sail on a publick-embassy*; and Philoctemon is said to have adopted Chærestatus by will, lest he should perish in one of his frequent expeditions by land or sea: if, in these cases, possession of the estates had been given to the donees, they would have been complete *donationes mortis causâ*, many examples of which may be found in the ancient poets and historians of Greece; but they seem to have been regular devises according to the law of Solon. The express words of that law, as well as the common sense of mankind, required that a testator should have the full enjoyment of his reason and liberty, without which no instrument executed by a man can with any propriety be called his *will*: thus it was contended, that Philoctemon's disposition of his property was exactly agreeable to the law, since he had no legitimate children, and had been advanced by his fellow-citizens to the highest honours on account of his superiour talents; and it was no uncommon dilemma, of which we have examples at the conclusion of the first and eighth speeches, "that either no will at all had been made by the deceased, or that, if it had,

“ it was invalid, since he could not have disin-
 “ herited his relation, whom he always loved,
 “ or adopted a person, whom he always ab-
 “ horred, without having lost his senses by the
 “ effects of poison or disease.” From this *specious* mode of reasoning proceeded the *Roman* doctrine of *inofficious* testaments, which were set aside on a presumption of insanity, or of such caprice as amounted to folly; thus the will of *Æbutius*, who, having two daughters of equal merit, left his estate to one of them exclusively of the other, was considered as a proof of madness.

The power and understanding of an Athenian testator being indisputable, he wrote his will in the simplest and clearest manner, and commonly in the following form: “ Philoctemon the Cephisian made this testament. If any accident should befall me, and if my wife should not be delivered of a child, I give all my estate and interest to my nephew Chærestratus, whom I adopt as my son; and I bequeath one talent to my wife, together with my house at Cephisia.” We may collect from a passage in the eighth speech, that it was not absolutely necessary for a will to be attested; it was usual, however, to have witnesses, and prudent to convene as many friends and relations as could be assembled, in whose presence the will was ac-

knowledged by the testator, but the contents of it were seldom disclosed: it was then *sealed up* for the purpose of secrecy, and generally committed to the care of some kinsman, who was not interested in the destruction of it, or whose integrity was wholly unsuspected. Thus the testament of old *Euctemon* was deposited with his friend Pythodorus, and that of his son with his brother-in-law Chæreas; and the pretended will of *Astyphilus* was said to have been left in the custody of his uncle Hierocles; but the Athenian wills were sometimes placed, for greater security, in one of the publick temples, a method frequent also at Rome; and the will of Cleonymus was, probably, secured in this manner, since, when he wished to cancel it, he sent Posidippus for the *ἀσυνόμῳ* or *Ædile*, who had the care of all the great buildings at Athens. Notwithstanding these precautions, a number of forged wills were continually set up; and, notwithstanding the wise provisions of the law, as great a number were obtained by improper influence; but, though the profligacy of the Athenians has been ascribed to the form of their government, yet, if we consider the multitude of forgeries and impositions of the same kind, which almost every circuit in England brings to light, we shall be forced to confess, that the people of Attica were profligate, not *because* they

had a popular government, but *although* they had it ; and we must look for another source of their wickedness and of our own, which I conceive to be this ; that, “ in artificial society, “ money soon acquires a value inconsistent with “ virtue and honesty.”

There is a vein of just reasoning on the evidence of wills in the speech on the estate of *Nicostratus*, whose testament, as well as that of *Astyphilus*, appears to have been forged ; but he must be an unskilful advocate, who cannot make his own case plausible ; and, as the arguments on the other side are not extant, it is impossible for us to decide the causes with justice : the same may be observed as to all the questions of mere fact, which arise in the speeches of Isæus ; but so many disinterested witnesses, whose depositions are preserved by his pupil, confirm the pedigree of HAGNIAS, that it is equally impossible for us to doubt the truth of it.

If PHILOCTEMON had adopted Chærestratus in his life-time, an afterborn child would have been coheir with his adopted son ; but he might have desired to leave his entire possessions to his own issue ; and such an adoption would have been irrevocable, except for the most weighty reasons, whilst a testamentary appointment might be revoked at pleasure. The revocation of wills was usually performed at Athens

with great ceremony, and in the presence of a magistrate ; for those, with whom they had been deposited, would not surrender or unseal them, except by the authority of the court, lest they should at any time be charged with having altered them : hence Pythodorus refused to give up the testament of Euctemon, and, when he was called before the Archon, declared that he could have no wish to detain it, but insisted, that, as Chæreas was present, when Euctemon committed the will to his charge, and as an infant daughter of Chæreas was living, whose interests might be affected by the revocation of it, he was authorized to keep it, until her guardian or husband could secure him from any trouble on her account ; and the court approved of his caution ; but the will was revoked, it seems, by the *publick* declaration of Euctemon, that it was no longer valid.

The speech on the estate of Cleonymus clearly shows the formality with which a testament was rescinded ; and the question on the *virtual* revocation is discussed with elegance ; nor could Isæus be easily answered, if the *actual* revocation was in truth prevented by the contrivance of the devisees, from which both reason and justice would have forbidden them to derive advantage. I have hitherto purposely abstained from citing *English* cases on the important sub-

ject of devises and revocations, because I wished to avoid even the appearance of professional ostentation, and because the books, in which they may be read, are on the shelves of every student, who will find it an agreeable exercise to consider how these Athenian causes would have been decided at Westminster; but I cannot help alluding to the case of *Burton* and *Gowell* in the thirty-fifth year of Elizabeth, where a man executed a devise at Pulham, and afterwards lying sick at Sterston, said, “*my will made at Pulham shall not stand,*” and it was holden that these words revoked the will, because the verb apparently future denoted a present resolution, but a declaration of a future intention would not have been sufficient: such words, however, spoken in private, would not have amounted to a revocation at Athens, any more than with us after the statute of frauds.

Before I conclude this commentary, I must take notice of a few circumstances in one or two of the speeches; and, first, of a passage in that just mentioned, where *Polyarchus* is said to have directed, that, “if his son Cleonymus died without issue, the estate should go to his grandsons:” now, if this direction had been contained in a will of the grandfather, Cleonymus could hardly have been empowered to deprive the persons in remainder of their interest, since

the Athenians had not even an idea of estates-tail by implication, much less of recoveries by which those entails might be barred; we must, therefore, suppose that this was only a *desire* or *recommendation* of Polyarchus, which his son might legally, although not very decently, disregard. Next, it may be remarked, that, in the real testament of *Philoctemon* and in the pretended one of *Hagnias*, we may discover the rudiments of those *substitutions*, which form so large a part of our modern systems: Hagnias is supposed to have devised his property to his niece, and, after her death, to his half-brother *Glauco*, who, when she died, entered upon the estate by virtue of the remainder, which had been vested in him; but such limitations were, I believe, uncommon among the Athenians, whose jurisprudence was not entangled with the subtle doctrine of contingent and vested interests, or the multitude of perplexing questions, to which the capricious fancy of testators, with a little help from conveyancers, has constantly given birth in England; nor would the ancient courts have suffered justice to be impeded by the technical niceties which confined our countrymen, to whom devises, on their first introduction, appeared, they said, of a *marvellous nature*; and a single question, in the cause of *Curius* and *Coponius*, which the Roman tribunal decided

justly in one day, was agitated in our courts for near forty years. I check myself on the prospect of the vast field, into which this subject would lead me, remembering, that it is the sole duty of a commentator to illustrate his author; and the speeches of ISÆUS are made, I flatter myself, sufficiently clear by the preceding observations; although, I confess, that some few clouds and dark places are left in them, which more leisure than my late engagements have permitted me to enjoy, might perhaps have enabled me to disperse and elucidate. I am fully sensible, that deep researches into the legal antiquities of *Greece* and *Rome* are of greater use to scholars and contemplative persons, than to lawyers and men of business; that Bracton and Littleton, Coke and Rolle, are the proper objects of our study; and that, if a client were to ask his counsel whether he had an estate for life or in tail, he would receive little satisfaction from being told, that, whatever estate he had, he might devise it by the law of *Solon*, provided the devisee took his daughter in marriage; but the ablest advocates and wisest judges have frequently embellished their arguments with learned allusions to ancient cases; and such allusions, it must be allowed, are often useful, always ornamental; and, when they are introduced without pedantry, never fail to please. So delight-

ful, indeed, is the study of laws, general and particular, ancient and modern, Asiatick and European, that even the fine arts are not more alluring; and it is with pleasure, as well as firmness, that I adopt the resolution of CICERO, which cannot be more forcibly or concisely expressed than in the very words of his letter to *Varro*: “*Mihi hæc videntur—si nemo utetur*
“*operâ, tamen et scribere et legere πολιτείας, et si*
“*minùs in curiâ atque in foro, at in literis et*
“*libris, ut doctissimi veteres fecerunt, navare*
“*republicam, et de moribus ac legibus quæ-*
“*rere.*”

SACONTALÁ;
OR,
THE FATAL RING:

AN
INDIAN DRAMA.

BY CÁLIDÁS.

TRANSLATED FROM THE
ORIGINAL SANSKRIT AND PRACRIT.

PREFACE.

IN one of the letters which bear the title of EDIFYING, though most of them swarm with ridiculous errors, and all must be consulted with extreme diffidence, I met, some years ago, with the following passage: “ In the north of India
“ there are many books, called Nátaç, which,
“ as the Bráhmens assert, contain a large portion
“ of ancient history without any mixture of fa-
“ ble ;” and having an eager desire to know the real state of this empire before the conquest of it by the Savages of the North; I was very solicitous, on my arrival in Bengal, to procure access to those books, either by the help of translations, if they had been translated, or by learning the language in which they were originally composed, and which I had yet a stronger inducement to learn from its connection with the administration of justice to the Hindûs; but when I was able to converse with the Bráhmens, they assured me that the Nátaçs were not histories, and abounded with fables; that they were

extremely popular works, and consisted of conversations in prose and verse, held before ancient Rájás in their publick assemblies, on an infinite variety of subjects, and in various dialects of India: this definition gave me no very distinct idea; but I concluded that they were dialogues on moral or literary topicks; whilst other Europeans, whom I consulted, had understood from the natives that they were discourses on dancing, musick, or poetry. At length a very sensible Bráhmen, named Rádácánt, who had long been attentive to English manners, removed all my doubts, and gave me no less delight than surprise, by telling me that our nation had compositions of the same sort, which were publickly represented at Calcutta in the cold season, and bore the name, as he had been informed, of plays. Resolving at my leisure to read the best of them, I asked which of their Nátaes was most universally esteemed; and he answered without hesitation, Sacontalá, supporting his opinion, as usual among the Pandits, by a couplet to this effect: “The ring of Sacontalá, in which the
 “fourth act, and four stanzas of that act, are
 “eminently brilliant, displays all the rich exu-
 “berance of Cálidása’s genius.” I soon procured a correct copy of it; and, assisted by my teacher Rámalóchan, began with translating it verbally into Latin, which bears so great a resemblance

to Sanscrit, that it is more convenient than any modern language for a scrupulous interlineary version: I then turned it word for word into English, and afterwards, without adding or suppressing any material sentence, disengaged it from the stiffness of a foreign idiom, and prepared the faithful translation of the Indian drama, which I now present to the publick as a most pleasing and authentick picture of old Hindû manners, and one of the greatest curiosities that the literature of Asia has yet brought to light.

Dramatick poetry must have been immemorially ancient in the Indian empire: the invention of it is commonly ascribed to Bheret, a sage believed to have been inspired, who invented also a system of musick which bears his name; but this opinion of its origin is rendered very doubtful by the universal belief, that the first Sanscrit verse ever heard by mortals was pronounced in a burst of resentment by the great Válmic, who flourished in the silver age of the world, and was author of an Epick Poem on the war of his contemporary, Ráma, king of Ayódhyà; so that no drama in verse could have been represented before his time; and the Indians have a wild story, that the first regular play, on the same subject with the Rámáyan, was composed by Hanumat or Pávan, who commanded an army of Satyrs or Mountaineers in Ráma's expedition

against Lancà: they add, that he engraved it on a smooth rock, which, being dissatisfied with his composition, he hurled into the sea; and that, many years after, a learned prince ordered expert divers to take impressions of the poem on wax, by which means the drama was in great measure restored; and my Pandit assures me that he is in possession of it. By whomsoever or in whatever age this species of entertainment was invented, it is very certain, that it was carried to great perfection in its kind, when Vicramáditya, who reigned in the first century before Christ, gave encouragement to poets, philologists, and mathematicians, at a time when the Britons were as unlettered and unpolished as the army of Hanumat: nine men of genius, commonly called the nine gems, attended his court, and were splendidly supported by his bounty; and Cálidás is unanimously allowed to have been the brightest of them.—A modern epigram was lately repeated to me, which does so much honour to the author of Sacontalá, that I cannot forbear exhibiting a literal version of it: “ Poetry was the sportful daughter of Válmic, and, having been educated by Vyása, she chose Cálidás for her bridegroom after the manner of Viderbha: she was the mother of Amara, Sundar, Sanc’ha, Dhanic; but now, old and decrepit, her beauty faded, and her unadorned

“feet slipping as she walks, in whose cottage
“does she disdain to take shelter?”

All the other works of our illustrious poet, the Shakespeare of India, that have yet come to my knowledge, are a second play, in five acts, entitled *Urvasí*; an heroic poem, or rather a series of poems in one book, on the Children of the Sun; another, with perfect unity of action, on the Birth of *Cumára*, god of war; two or three love tales in verse; and an excellent little work on Sanscrit Metre, precisely in the manner of Terentianus; but he is believed by some to have revised the works of *Válmic* and *Vyása*, and to have corrected the perfect editions of them which are now current: this at least is admitted by all, that he stands next in reputation to those venerable bards; and we must regret, that he has left only two dramatick poems, especially as the stories in his *Raghuvansa* would have supplied him with a number of excellent subjects.—Some of his contemporaries, and other Hindû poets even to our own times, have composed so many tragedies, comedies, farces, and musical pieces, that the Indian theatre would fill as many volumes as that of any nation in ancient or modern Europe: all the Pandits assert that their plays are innumerable; and, on my first inquiries concerning them, I had notice of more than thirty, which they consider as the flower

of their Nátics, among which the Malignant Child, the Rape of Ufhá, the Taming of Durvâsas, the Seizure of the Lock, Málati and Mádhava, with five or six dramas on the adventures of their incarnate gods, are the most admired after those of Cálidás. They are all in verse, where the dialogue is elevated; and in prose, where it is familiar: the men of rank and learning are represented speaking pure Sanscrit, and the women Prácrit, which is little more than the language of the Bráhmens melted down by a delicate articulation to the softness of Italian; while the low persons of the drama speak the vulgar dialects of the several provinces which they are supposed to inhabit.

The play of Sacontalá must have been very popular when it was first represented; for the Indian empire was then in full vigour, and the national vanity must have been highly flattered by the magnificent introduction of those kings and heroes in whom the Hindûs gloried; the scenery must have been splendid and beautiful; and there is good reason to believe, that the court at Avanti was equal in brilliancy during the reign of Vicramáditya, to that of any monarch in any age or country.—Dushmanta, the hero of the piece, appears in the chronological tables of the Bráhmens among the Children of the Moon, and in the twenty-first generation

after the flood ; so that, if we can at all rely on the chronology of the Hindûs, he was nearly contemporary with Obed, or Jesse ; and Puru, his most celebrated ancestor, was the fifth in descent from Budha, or Mercury, who married, they say, a daughter of the pious king, whom Vishnu preserved in an ark from the universal deluge : his eldest son Bheret was the illustrious progenitor of Curu, from whom Pándu was lineally descended, and in whose family the Indian Apollo became incarnate ; whence the poem, next in fame to the Rámáyan, is called Mahábhárat.

As to the machinery of the drama, it is taken from the system of mythology, which prevails to this day, and which it would require a large volume to explain ; but we cannot help remarking, that the deities introduced in the Fatal Ring are clearly allegorical personages. Maríchi, the first production of Brahmá, or the Creative Power, signifies light, that subtil fluid which was created before its reservoir, the sun, as water was created before the sea ; Casyapa, the offspring of Maríchi, seems to be a personification of infinite space, comprehending innumerable worlds ; and his children by Aditi, or his active power (unless Aditi mean the primeval day, and Diti, his other wife, the night), are Indra, or the visible

firmament, and the twelve Adityas, or suns, presiding over as many months.

On the characters and conduct of the play I shall offer no criticism ; because I am convinced that the tastes of men differ as much as their sentiments and passions, and that, in feeling the beauties of art, as in smelling flowers, tasting fruits, viewing prospects, and hearing melody, every individual must be guided by his own sensations and the incommunicable associations of his own ideas. This only I may add, that if *Sacotalá* should ever be acted in India, where alone it could be acted with perfect knowledge of Indian dresses, manners, and scenery, the piece might easily be reduced to five acts of a moderate length, by throwing the third act into the second, and the sixth into the fifth ; for it must be confessed that the whole of *Dushmanta's* conversation with his buffoon, and great part of his courtship in the hermitage, might be omitted without any injury to the drama.

It is my anxious wish that others may take the pains to learn Sanscrit, and may be persuaded to translate the works of *Cálidás* : I shall hardly again employ my leisure in a task so foreign to my professional (which are, in truth, my favourite) studies ; and have no intention of translating any other book from any language,

except the Law Tract of Menu, and the new Digest of Indian and Arabian laws; but, to show, that the Bráhmens, at least, do not think polite literature incompatible with jurisprudence, I cannot avoid mentioning, that the venerable compiler of the Hindû Digest, who is now in his eighty-sixth year, has the whole play of Sactalá by heart; as he proved when I last conversed with him, to my entire conviction. Left, however, I should hereafter seem to have changed a resolution which I mean to keep inviolate, I think it proper to say, that I have already translated four or five other books, and among them the Hitópadeśa, which I undertook, merely as an exercise in learning Sanscrit, three years before I knew that Mr. Wilkins, without whose aid I should never have learnt it, had any thought of giving the same work to the publick.



PERSONS OF THE DRAMA.

Dushmanta, Emperor of India.

Sacontalá, the Heroine of the Piece.

Anusúyá,
Priyamvadá, } Damsels attendant on her.

Mádhavya, the Emperor's Buffoon.

Gautamí, an old female Hermit.

Sárngarava,
Sáradwata, } two Bráhmens.

Canna, Foster-father of Sacontalá.

Cumbhílaca, a Fisherman.

Misracésí, a Nymph.

Mátali, Charioteer of Indra.

A little Boy.

Casyapa,
Aditi, } Deities, Parents of Indra.

Officers of State and Police, Bráhmens, Damsels, Hermits,
Pupils, Chamberlas, Warders of the Palace, Messengers,
and Attendants.



THE PROLOGUE.

A Bráhmén pronounces the benediction.

WATER was the first work of the Creator ; and Fire receives the oblations ordained by law ; the Sacrifice is performed with solemnity ; the Two Lights of heaven distinguish time ; the subtil Ether, which is the vehicle of sound, pervades the universe ; the Earth is the natural parent of all increase ; and by Air all things breathing are animated : may ISA, the God of Nature, apparent in these eight forms, bless and sustain you !

The Manager enters.

Man. What occasion is there for a long speech ?—[*Looking towards the dressing-room*]—When your decorations, Madam, are completed, be pleased to come forward.

An Actress enters.

Actr. I attend, Sir.—What are your commands ?

Man. This, Madam, is the numerous and polite assembly of the famed Hero, our king Vicramáditya, the patron of every delightful art; and before this audience we must do justice to a new production of Cálidás, a dramattick piece, entitled Sacontalá, or, The Fatal Ring: it is requested, therefore, that all will be attentive.

Actr. Who, Sir, could be inattentive to an entertainment so well intended?

Man. [*Smiling*] I will speak, Madam, without reserve.—As far as an enlightened audience receive pleasure from our theatrical talents, and express it, so far, and no farther, I set a value on them; but my own mind is diffident of its powers, how strongly soever exerted.

Actr. You judge rightly in measuring your own merit by the degree of pleasure which this assembly may receive; but its value, I trust, will presently appear.—Have you any farther commands?

Man. What better can you do, since you are now on the stage, than exhilarate the souls, and gratify the sense, of our auditory with a song?

Actr. Shall I sing the description of a season? and which of the seasons do you chuse to hear described?

Man. No finer season could be selected than the summer, which is actually begun, and abounds with delights. How sweet is the close

of a summer day, which invites our youth to bathe in pure streams, and induces gentle slumber under the shades refreshed by sylvan breezes, which have passed over the blooming Pátalis and stolen their fragrance !

Ætr. [*Singing.*] “ Mark how the soft blossoms of the Nágacéfar are lightly kissed by the bees ! Mark how the damsels delicately place behind their ears the flowers of Sirísha ! ”

Man. A charming strain ! the whole company sparkles, as it were, with admiration ; and the musical mode to which the words are adapted, has filled their souls with rapture. By what other performance can we ensure a continuance of their favour ?

Ætr. Oh ! by none better than by the Fatal Ring, which you have just announced.

Man. How could I forget it ! In that moment I was lulled to distraction by the melody of thy voice, which allured my heart, as the king Dushmanta is now allured by the swift antelope.

[*They both go out.*]

SACONTALÁ;

OR,

THE FATAL RING.

ACT I.

SCENE—A FOREST.

Dushmanta, *in a car, pursuing an antelope, with a bow and quiver, attended by his Charioteer.*

Char. [*Looking at the antelope, and then at the king.*]

WHEN I cast my eye on that black antelope, and on thee, O king, with thy braced bow, I see before me, as it were, the God Mahéśa chafing a hart, with his bow, named pináca, braced in his left hand.

Dushm. The fleet animal has given us a long chase. Oh! there he runs, with his neck bent gracefully, looking back, from time to time, at the car which follows him. Now, through fear of a descending shaft, he contracts his forehead, and extends his flexible haunches; and now,

through fatigue, he pauses to nibble the grass in his path with his mouth half opened. See how he springs and bounds with long steps, lightly skimming the ground, and rising high in the air! And now so rapid is his flight, that he is scarce discernible!

Char. The ground was uneven, and the horses were checked in their course. He has taken advantage of our delay. It is level now, and we may easily overtake him.

Dushm. Loosen the reins.

Char. As the king commands.—[*He drives the car first at full speed, and then gently.*].—He could not escape. The horses were not even touched by the clouds of dust which they raised; they tossed their manes, erected their ears, and rather glided than galloped over the smooth plain.

Dushm. They soon outran the swift antelope.—Objects which, from their distance, appeared minute, presently became larger: what was really divided, seemed united, as we passed; and what was in truth bent, seemed straight. So swift was the motion of the wheels, that nothing, for many moments, was either distant or near. [He fixes an arrow in his bowstring.

[*Behind the scenes.*] He must not be slain. This antelope, O king, has an asylum in our forest: he must not be slain.

Char. [*Listening and Looking.*] Just as the animal presents a fair mark for your arrow, two hermits are advancing to interrupt your aim.

Dushm. Then stop the car.

Char. The king is obeyed.

[*He draws in the reins.*]

Enter a Hermit and his Pupil.

Herm. [*Raising his hands.*] Slay not, O mighty sovereign, slay not a poor fawn, who has found a place of refuge. No, surely, no; he must not be hurt. An arrow in the delicate body of a deer would be like fire in a bale of cotton. Compared with thy keen shafts, how weak must be the tender hide of a young antelope! Replace quickly, oh! replace the arrow which thou hast aimed. The weapons of you kings and warriors are destined for the relief of the oppressed, not for the destruction of the guiltless.

Dushm. [*Saluting them.*] It is replaced.

[*He places the arrow in his quiver.*]

Herm. [*With joy.*] Worthy is that act of thee, most illustrious of monarchs; worthy, indeed, of a prince descended from Puru. Mayst thou have a son adorned with virtues, a sovereign of the world!

Pup. [*Elevating both his hands.*] Oh! by all means, may thy son be adorned with every virtue, a sovereign of the world!

Dushm. [*Bowing to them.*] My head bears with reverence the order of a Bráhmén.

Herm. Great king, we came hither to collect wood for a solemn sacrifice; and this forest, on the banks of the Malinì, affords an asylum to the wild animals protected by Sacontalá, whom our holy preceptor Canna has received as a sacred deposit. If you have no other avocation, enter yon grove, and let the rights of hospitality be duly performed. Having seen with your own eyes the virtuous behaviour of those whose only wealth is their piety, but whose worldly cares are now at an end, you will then exclaim, "How many good subjects are defended by this arm, which the bowstring has made callous!"

Dushm. Is the master of your family at home?

Herm. Our preceptor is gone to Sómátírt'ha, in hopes of deprecating some calamity, with which destiny threatens the irreproachable Sacontalá; and he has charged her, in his absence, to receive all guests with due honour.

Dushm. Holy man, I will attend her; and she, having observed my devotion, will report it favourably to the venerable sage.

Both. Be it so; and we depart on our own business. [*The Hermit and his Pupil go out.*]

Dushm. Drive on the car. By visiting the abode of holiness, we shall purify our souls.

Char. As the king (may his life be long!) commands, *[He drives on.]*

Dushm. *[Looking on all sides.]* That we are near the dwelling-place of pious hermits, would clearly have appeared, even if it had not been told.

Char. By what marks?

Dushm. Do you not observe them? See under yon trees the hallowed grains which have been scattered on the ground, while the tender female parrots were feeding their unfledged young in their pendent nests. Mark in other places the shining pieces of polished stone which have bruised the oily fruit of the sacred Ingudi. Look at the young fawns, which, having acquired confidence in man, and accustomed themselves to the sound of his voice, frisk at pleasure, without varying their course. Even the surface of the river is reddened with lines of consecrated bark, which float down its stream. Look again; the roots of yon trees are bathed in the waters of holy pools, which quiver as the breeze plays upon them; and the glowing lustre of yon fresh leaves is obscured, for a time, by smoke that rises from oblations of clarified butter. See too, where the young roes graze, without apprehension from our approach, on the lawn before yonder garden, where the tops of the sacrificial

grafs, cut for some religious rite, are sprinkled around.

Char. I now observe all those marks of some holy habitation.

Dushm. [*Turning aside.*] This awful sanctuary, my friend, must not be violated. Here, therefore, stop the car; that I may descend.

Char. I hold in the reins. The king may descend at his pleasure.

Dushm. [*Having descended, and looking at his own dress.*] Groves devoted to religion must be entered in humbler habiliments. Take these regal ornaments;—[*the Charioteer receives them*]—and, whilst I am observing those who inhabit this retreat, let the horses be watered and dressed.

Char. Be it as you direct! [*He goes out.*]

Dushm. [*Walking round and looking.*] Now then I enter the sanctuary.—[*He enters the grove.*]—Oh! this place must be holy, my right arm throbs.—[*Pausing and considering.*]—What new acquisition does this omen promise in a sequestered grove? But the gates of predestined events are in all places open.

[*Behind the scenes.*] Come hither, my beloved companions; Oh! come hither.

Dushm. [*Listening.*] Hah! I hear female voices to the right of yon arbour. I am resolved to know who are conversing.—[*He walks round*

and looks..]—There are some damsels, I see, belonging to the hermit's family who carry water-pots of different sizes proportioned to their strength, and are going to water the delicate plants. Oh! how charmingly they look! If the beauty of maids who dwell in woodland retreats cannot easily be found in the recesses of a palace, the garden flowers must make room for the blossoms of the forest, which excel them in colour and fragrance. [*He stands gazing at them.*

Enter Sacontalá, Anufúyá, and Priyamvadá.

Anu. O my Sacontalá, it is in thy society that the trees of our father Canna seem to me delightful; it well becomes thee, who art soft as the fresh-blown Mallicà, to fill with water the canals which have been dug round these tender shrubs.

Sac. It is not only in obedience to our father that I thus employ myself, though that were a sufficient motive, but I really feel the affection of a sister for these young plants.

[*Watering them.*

Pri. My beloved friend, the shrubs which you have watered flower in the summer, which is now begun: let us give water to those which have passed their flowering time; for our virtue will be the greater when it is wholly disinterested.

Sac. Excellent advice! [*Watering other plants.*

Duskm. [*Aside in transport.*] How! is that Canna's daughter, Sacontalá?—[*With surprise.*]—The venerable sage must have an unfeeling heart, since he has allotted a mean employment to so lovely a girl, and has dressed her in a coarse mantle of woven bark. He, who could wish that so beautiful a creature, who at first sight ravishes my soul, should endure the hardships of his austere devotion, would attempt, I suppose, to cleave the hard wood Sami with a leaf of the blue lotos. Let me retire behind this tree, that I may gaze on her charms without diminishing her confidence. [*He retires.*]

Sac. My friend Priyamvadá has tied this mantle of bark so closely over my bosom that it gives me pain: Anufúyá, I request you to untie it.

[*Anufúyá unties the mantle.*]

Pri. [*Laughing.*] Well, my sweet friend, enjoy, while you may, that youthful prime, which gives your bosom so beautiful a swell.

Duskm. [*Aside.*] Admirably spoken, Priyamvadá! No; her charms cannot be hidden, even though a robe of intertwisted fibres be thrown over her shoulders, and conceal a part of her bosom, like a veil of yellow leaves enfolding a radiant flower. The water lily, though dark moss may settle on its head, is nevertheless beautiful; and the moon with dewy beams is rendered yet brighter by its black spots. The bark itself ac-

quires elegance from the features of a girl with antelope's eyes, and rather augments than diminishes my ardour. Many are the rough stalks which support the water lily; but many and exquisite are the blossoms which hang on them.

Sac. [*Looking before her.*] Yon Amra tree, my friends, points with the finger of its leaves, which the gale gently agitates, and seems inclined to whisper some secret. I will go near it.

[*They all approach the tree.*]

Pri. O my Sacontalá, let us remain some time in this shade.

Sac. Why here particularly?

Pri. Because the Amra tree seems wedded to you, who are graceful as the blooming creeper which twines round it.

Sac. Properly are you named Priyamvadá, or speaking kindly.

Dushm. [*Aside.*] She speaks truly. Yes; her lip glows like the tender leaflet; her arms resemble two flexible stalks; and youthful beauty shines, like a blossom, in all her lineaments.

Anu. See, my Sacontalá, how yon fresh Mallicà, which you have furnished Vanàdófini, or Delight of the Grove, has chosen the sweet Amra for her bridegroom.

Sac. [*Approaching, and looking at it with pleasure.*] How charming is the season, when the

nuptials even of plants are thus publicly celebrated! *[She stands admiring it.]*

Pri. *[Smiling.]* Do you know, my Anusíyá, why Sacontalá gazes on the plants with such rapture?

Anu. No, indeed: I was trying to guess. Pray, tell me.

Pri. "As the Grove's Delight is united to a fuitable tree, thus I too hope for a bridegroom to my mind."—That is her private thought at this moment.

Sac. Such are the flights of your own imagination. *[Inverting the water-pot.]*

Anu. Here is a plant, Sacontalá, which you have forgotten, though it has grown up, like yourself, under the fostering care of our father Canna.

Sac. Then I shall forget myself.—O wonderful!—*[approaching the plant.]*—O Priyamvadá! *[looking at it with joy]* I have delightful tidings for you.

Pri. What tidings, my beloved, for me?

Sac. This Mádhavi-creeper, though it be not the usual time for flowering, is covered with gay blossoms from its root to its top.

Both. *[Approaching it hastily.]* Is it really so, sweet friend?

Sac. Is it so? look yourselves.

Pri. *[With eagerness.]* From this omen, Sa-

contalá, I announce you an excellent husband, who will very soon take you by the hand.

[*Both girls look at Sacontalá.*]

Sac. [*Displeased.*] A strange fancy of yours!

Pri. Indeed, my beloved, I speak not jestingly. I heard something from our father Canna. Your nurture of these plants has prospered; and thence it is, that I foretel your approaching nuptials.

Anu. It is thence, my Priyamvadá, that she has watered them with so much alacrity.

Sac. The Mádhavi plant is my sister; can I do otherwise than cherish her?

[*Pouring water on it.*]

Dushm. [*Aside.*] I fear she is of the same religious order with her foster-father. Or has a mistaken apprehension risen in my mind? My warm heart is so attached to her, that she cannot but be a fit match for a man of the military class. The doubts which awhile perplex the good, are soon removed by the prevalence of their strong inclinations. I am enamoured of her, and she cannot, therefore, be the daughter of a Bráhmen, whom I could not marry.

Sac. [*Moving her head.*] Alas! a bee has left the blossom of this Mallicá, and is fluttering round my face.

[*She expresses uneasiness.*]

Dushm. [*Aside, with affection.*] How often have I seen our court damsels affectedly turn

their heads aside from some roving insect, merely to display their graces ! but this rural charmer knits her brows, and gracefully moves her eyes through fear only, without art or affectation. Oh ! happy bee, who touchest the corner of that eye beautifully trembling ; who, approaching the tip of that ear, murmurest as softly as if thou wert whispering a secret of love ; and who sippest nectar, while she waves her graceful hand, from that lip, which contains all the treasures of delight ! Whilst I am solicitous to know in what family she was born, thou art enjoying bliss, which to me would be supreme felicity.

Sac. Disengage me, I entreat, from this importunate insect, which quite baffles my efforts.

Pri. What power have we to deliver you ? The king Dushmanta is the sole defender of our consecrated groves.

Dushm. [*Aside.*] This is a good occasion for me to discover myself—[*advancing a little.*]—I must not, I will not, fear. Yet—[*checking himself and retiring*]—my royal character will thus abruptly be known to them. No ; I will appear as a simple stranger, and claim the duties of hospitality.

Sac. This impudent bee will not rest. I will remove to another place.—[*Stepping aside and looking round.*]—Away ! away ! He follows me

wherever I go. Deliver me, oh! deliver me from this distress.

Dushm. [*Advancing hastily.*] Ah! While the race of Puru govern the world, and restrain even the most profligate, by good laws well administered, has any man the audacity to molest the lovely daughters of pious hermits?

[*They look at him with emotion.*]

Anu. Sir, no man is here audacious; but this damsel, our beloved friend, was teased by a fluttering bee. [*Both girls look at Sacontalá.*]

Dushm. [*Approaching her.*] Damsel, may thy devotion prosper!

[*Sacontalá looks on the ground, bashful and silent.*]

Anu. Our guest must be received with due honours.

Pri. Stranger, you are welcome. Go, my Sacontalá; bring from the cottage a basket of fruit and flowers. This river will, in the mean time, supply water for his feet.

[*Looking at the water-pots.*]

Dushm. Holy maid, the gentleness of thy speech does me sufficient honour.

Anu. Sit down awhile on this bank of earth, spread with the leaves of Septaperna: the shade is refreshing, and our lord must want repose after his journey.

Dushm. You too must all be fatigued by your

hospitable attentions; rest yourselves, therefore, with me.

Pri. [*Aside to Sacontalá.*] Come, let us all be seated: our guest is contented with our reception of him. [*They all seat themselves.*]

Sac. [*Aside.*] At the sight of this youth I feel an emotion scarce consistent with a grove devoted to piety.

Dushm. [*Gazing at them alternately.*] How well your friendship agrees, holy damsels, with the charming equality of your ages, and of your beauties!

Pri. [*Aside to Anusúyá.*] Who can this be, my Anusúyá? The union of delicacy with robustness in his form, and of sweetness with dignity in his discourse, indicate a character fit for ample dominion.

Anu. [*Aside to Priyamvadá.*] I too have been admiring him. I must ask him a few questions.—[*Aloud.*] Your sweet speech, Sir, gives me confidence. What imperial family is embellished by our noble guest? What is his native country? Surely it must be afflicted by his absence from it. What, I pray, could induce you to humiliate that exalted form of yours by visiting a forest peopled only by simple anchorites?

Sac. [*Aside.*] Perplex not thyself, O my heart! let the faithful Anusúyá direct with her counsel the thoughts which rise in thee.

Dushm. [*Aside.*] How shall I reveal, or how shall I disguise myself?—[*Musing.*]—Be it so.—[*Aloud to Anusúyá.*] Excellent lady, I am a student of the Vēda, dwelling in the city of our king, descended from Puru; and, being occupied in the discharge of religious and moral duties, am come hither to behold the sanctuary of virtue.

Anu. Holy men, employed like you, are our lords and masters.

[*Sacotalá looks modest, yet with affection; while her companions gaze alternately at her and at the king.*]

Anu. [*Aside to Sacotalá.*] Oh! if our venerable father were present—

Sac. What if he were?

Anu. He would entertain our guest with a variety of refreshments.

Sac. [*Pretending displeasure.*] Go too; you had some other idea in your head; I will not listen to you. [*She sits apart.*]

Dushm. [*Aside to Anusúyá and Priyamvadá.*] In my turn, holy damsels, allow me to ask one question concerning your lovely friend.

Both. The request, Sir, does us honour.

Dushm. The sage Canna, I know, is ever intent upon the great Being; and must have declined all earthly connections. How then can this damsel be, as it is said, his daughter?

Anu. Let our lord hear. There is, in the family of Cufa, a pious prince of extensive power, eminent in devotion and in arms.

Dushm. You speak, no doubt, of Caufica, the sage and monarch.

Anu. Know, Sir, that he is in truth her father; while Canna bears that reverend name, because he brought her up, since she was left an infant.

Dushm. Left? the word excites my curiosity; and raises in me a desire of knowing her whole story.

Anu. You shall hear it, Sir, in few words.—When that sage king had begun to gather the fruits of his austere devotion, the gods of Swerga became apprehensive of his increasing power, and sent the nymph Ménacà to frustrate, by her allurements, the full effect of his piety.

Dushm. Is a mortal's piety so tremendous to the inferior deities? What was the event?

Anu. In the bloom of the vernal season, Caufica, beholding the beauty of the celestial nymph, and wafted by the gale of desire——

[*She stops and looks modest.*]

Dushm. I now see the whole. Sacontalá then is the daughter of a king, by a nymph of the lower heaven.

Anu. Even so.

Dushm. [*Aside.*] The desire of my heart is gratified.—[*Aloud.*] How, indeed, could her

transcendent beauty be the portion of mortal birth? Yon light, that sparkles with tremulous beams, proceeds not from a terrestrial cavern.

[Sacontalá *sits modestly, with her eyes on the ground.*

Dushm. [*Again aside.*] Happy man that I am! Now has my fancy an ample range. Yet, having heard the pleasantries of her companions on the subject of her nuptials, I am divided with anxious doubt, whether she be not wholly destined for a religious life.

Pri. [*Smiling, and looking first at Sacontalá, then at the king.*] Our lord seems desirous of asking other questions.

[Sacontalá *rebukes Priyamvadá with her hand.*

Dushm. You know my very heart. I am, indeed, eager to learn the whole of this charmer's life; and must put one question more.

Pri. Why should you muse on it so long?— [*Aside.*] One would think this religious man was forbidden by his vows to court a pretty woman.

Dushm. This I ask. Is the strict rule of a hermit so far to be observed by Canna, that he cannot dispose of his daughter in marriage, but must check the natural impulse of juvenile love? Can she (oh preposterous fate!) be destined to reside for life among her favourite antelopes, the black lustre of whose eyes is far surpassed by hers?

Pri. Hitherto, Sir, our friend has lived happy in this consecrated forest, the abode of her spiritual father; but it is now his intention to unite her with a bridegroom equal to herself.

Dushm. [*Aside, with ecstasy.*] Exult, oh my heart, exult. All doubt is removed; and what before thou wouldst have dreaded as a flame, may now be approached as a gem inestimable.

Sac. [*Seeming angry.*] Anusúyá, I will stay here no longer.

Anu. Why so, I pray?

Sac. I will go to the holy matron Gautamí, and let her know how impertinently our Priyamvadá has been prattling. [*She rises.*]

Anu. It will not be decent, my love, for an inhabitant of this hallowed wood to retire before a guest has received complete honour.

[*Sacotalá, giving no answer, offers to go.*]

Dushm. [*Aside.*] Is she then departing?—[*He rises, as if going to stop her, but checks himself.*].—The actions of a passionate lover are as precipitate as his mind is agitated. Thus I, whose passion impelled me to follow the hermit's daughter, am restrained by a sense of duty.

Pri. [*Going up to Sacotalá.*] My angry friend, you must not retire.

Sac. [*Stepping back and frowning.*] What should detain me?

Pri. You owe me the labour, according to

our agreement, of watering two more shrubs. Pay me first, to acquit your conscience, and then depart, if you please. [*Holding her.*]

Dushm. The damsel is fatigued, I imagine, by pouring so much water on the cherished plants. Her arms, graced with palms like fresh blossoms, hang carelessly down; her bosom heaves with strong breathing; and now her dishevelled locks, from which the string has dropped, are held by one of her lovely hands. Suffer me, therefore, thus to discharge the debt. — [*Giving his ring to Priyamvadá. Both damsels, reading the name Dushmanta, inscribed on the ring, look with surprise at each other.*] — It is a toy unworthy of your fixed attention; but I value it as a gift from the king.

Pri. Then you ought not, Sir, to part with it. Her debt is from this moment discharged on your word only. [*She returns the ring.*]

Anu. You are now released, Sacontalá, by this benevolent lord—or favoured, perhaps, by a monarch himself. To what place will you now retire?

Sac. [*Aside.*] Must I not wonder at all this if I preserve my senses?

Pri. Are not you going, Sacontalá?

Sac. Am I your subject? I shall go when it pleases me.

Dushm. [*Aside, looking at Sacontalá.*] Either

she is affected towards me, as I am towards her, or I am distracted with joy. She mingles not her discourse with mine; yet, when I speak, she listens attentively. She commands not her actions in my presence; and her eyes are engaged on me alone.

Behind the scenes.] Oh pious hermits, preserve the animals of this hallowed forest! The king Dushmanta is hunting in it. The dust raised by the hoofs of his horses, which pound the pebbles ruddy as early dawn, falls like a swarm of blighting insects on the consecrated boughs which sustain your mantles of woven bark, moist with the water of the stream in which you have bathed.

Dushm. [*Aside.*] Alas! my officers, who are searching for me, have indiscreetly disturbed this holy retreat.

Again behind the scenes.] Beware, ye hermits, of yon elephant, who comes overturning all that oppose him; now he fixes his trunk with violence on a lofty branch that obstructs his way; and now he is entangled in the twining stalks of the Vratati. How are our sacred rites interrupted! How are the protected herds dispersed! The wild elephant, alarmed at the new appearance of a car, lays our forest waste.

Dushm. [*Aside.*] How unwillingly am I offending the devout foresters! Yes; I must go to them instantly.

Pri. Noble stranger, we are confounded with dread of the enraged elephant. With your permission, therefore, we retire to the hermit's cottage.

Anu. O Sacontalá, the venerable matron will be much distressed on your account. Come quickly, that we may be all safe together.

Sac. [*Walking slowly.*] I am stopped, alas! by a sudden pain in my side.

Dushm. Be not alarmed, amiable damsels. It shall be my care that no disturbance happen in your sacred groves.

Pri. Excellent stranger, we were wholly unacquainted with your station; and you will forgive us, we hope, for the offence of intermitting awhile the honours due to you: but we humbly request that you will give us once more the pleasure of seeing you, though you have not now been received with perfect hospitality.

Dushm. You depreciate your own merits. The sight of you, sweet damsels, has sufficiently honoured me.

Sac. My foot, O Anusúyá, is hurt by this pointed blade of Cusa grass; and now my loose vest of bark is caught by a branch of the Curuvaca. Help me to disentangle myself, and support me. [*She goes out, looking from time to time at Dushmanta, and supported by the damsels.*]

Dushm. [*Sighing.*] They are all departed; and I too, alas! must depart. For how short a

moment have I been blessed with a sight of the incomparable Sacontalá ! I will send my attendants to the city, and take my station at no great distance from this forest. I cannot, in truth, divert my mind from the sweet occupation of gazing on her. How, indeed, should I otherwise occupy it ? My body moves onward ; but my restless heart runs back to her ; like a light flag borne on a staff against the wind, and fluttering in an opposite direction. [*He goes out.*

ACT II.

SCENE—A PLAIN, *with royal pavilions on the skirt of the forest.*

Mádhavya. [*Sighing and lamenting.*]

STRANGE recreation this!—Ah me! I am wearied to death.—My royal friend has an unaccountable taste.—What can I think of a king so passionately fond of chasing unprofitable quadrupeds?—"Here runs an antelope! there goes a boar!"—Such is our only conversation.—Even at noon, in excessive heat, when not a tree in the forest has a shadow under it, we must be skipping and prancing about, like the beasts whom we follow.—Are we thirsty? We have nothing to drink but the waters of mountain torrents, which taste of burned stones and mawkish leaves.—Are we hungry? We must greedily devour lean venison, and that commonly roasted to a stick.—Have I a moment's repose at night?—My slumber is disturbed by the din of horses and elephants, or by the sons of slave-girls hollering out, "More venison, more venison!"—Then comes a cry that pierces my ear, "Away to the forest, away!"—Nor are these my only grievances: fresh pain is now added to the smart

of my first wounds ; for, while we were separated from our king, who was chasing a foolish deer, he entered, I find, yon lonely place, and there, to my infinite grief, saw a certain girl, called Sacontalá, the daughter of a hermit : from that moment not a word of returning to the city !—These distressing thoughts have kept my eyes open the whole night.—Alas ! when shall we return ?—I cannot set eyes on my beloved friend Dushmanta since he set his heart on taking another wife.—[*Stepping aside and looking*]—Oh ! there he is.—How changed !—He carries a bow, indeed, but wears for his diadem a garland of wood-flowers.—He is advancing : I must begin my operations.—[*He stands leaning on a staff.*]—Let me thus take a moment's rest.—[*Aloud.*]

Dushmanta enters, as described.

Dushm. [*Aside, sighing.*] My darling is not so easily attainable ; yet my heart assumes confidence from the manner in which she seemed affected : surely, though our love has not hitherto prospered, yet the inclinations of us both are fixed on our union.—[*Smiling.*]—Thus do lovers agreeably beguile themselves, when all the powers of their souls are intent on the objects of their desire !—But am I beguiled ? No ; when she cast her eyes even on her companions, they sparkled with tenderness ; when she moved her graceful

arms, they dropped, as if languid with love; when her friend remonstrated against her departure, she spoke angrily—All this was, no doubt, on my account.—Oh! how quick-sighted is love in discerning his own advantages!

Mádh. [*Bending downward, as before.*] Great prince! my hands are unable to move; and it is with my lips only that I can mutter a blessing on you. May the king be victorious!

Dushm. [*Looking at him and smiling.*] Ah! what has crippled thee, friend Mádhavya?

Mádh. You strike my eye with your own hand, and then ask what makes it weep.

Dushm. Speak intelligibly. I know not what you mean.

Mádh. Look at yon Vétas tree bent double in the river. Is it crooked, I pray, by its own act, or by the force of the stream?

Dushm. It is bent, I suppose, by the current.

Mádh. So am I by your Majesty.

Dushm. How so, Mádhavya?

Mádh. Does it become you, I pray, to leave the great affairs of your empire, and so charming a mansion as your palace, for the sake of living here like a forester? Can you hold a council in a wood? I, who am a reverend Bráhmén, have no longer the use of my hands and feet: they are put out of joint by my running all day long after dogs and wild beasts. Favour me, I

entreat, with your permission to repose but a single day.

Dushm. [*Aside.*] Such are this poor fellow's complaints; whilst I, when I think of Canna's daughter, have as little relish for hunting as he: How can I brace this bow, and fix a shaft in the string, to shoot at those beautiful deer who dwell in the same groves with my beloved, and whose eyes derive lustre from hers?

Mádh. [*Looking stedfastly at the king.*] What scheme is your royal mind contriving? I have been crying, I find, in a wilderness.

Dushm. I think of nothing but the gratification of my old friend's wishes.

Mádh. [*Joyfully.*] Then may the king live long! [*Rising, but counterfeiting feebleness.*

Dushm. Stay; and listen to me attentively.

Mádh. Let the king command.

Dushm. When you have taken repose, I shall want your assistance in another business, that will give you no fatigue.

Mádh. Oh! what can that be, unless it be eating rice-pudding?

Dushm. You shall know in due time.

Mádh. I shall be delighted to hear it.

Dushm. Hola! who is there?

The Chamberlain enters.

Cham. Let my sovereign command me.

Dushm. Raivataca, bid the General attend.

Cham. I obey.—[*He goes out, and returns with the General.*].—Come quickly, Sir, the king stands expecting you.

Gen. [*Aside, looking at Dushmanta.*] How comes it that hunting, which moralists reckon a vice, should be a virtue in the eyes of a king? Thence it is, no doubt, that our emperor, occupied in perpetual toil, and inured to constant heat, is become so lean, that the sunbeams hardly affect him; while he is so tall, that he looks to us little men, like an elephant grazing on a mountain: he seems all soul.—[*Aloud, approaching the king.*].—May our monarch ever be victorious!—This forest, O king, is infested by beasts of prey: we see the traces of their huge feet in every path.—What orders is it your pleasure to give?

Dushm. Bhadrasena, this moralizing Mádha-vya has put a stop to our recreation by forbidding the pleasures of the chase.

Gen. [*Aside to Mádhavya.*] Be firm to your word, my friend; whilst I found the king's real inclinations.—[*Aloud.*] O! Sir, the fool talks idly. Consider the delights of hunting. The body, it is true, becomes emaciated, but it is light and fit for exercise. Mark how the wild beasts of various kinds are variously affected by fear and by rage! What pleasure equals that of a

proud archer, when his arrow hits the mark as it flies?—Can hunting be justly called a vice? No recreation, surely, can be compared with it.

Madd. [*Angrily.*] Away, thou false flatterer! The king, indeed, follows his natural bent, and is excusable; but thou, son of a slave girl, hast no excuse.—Away to the wood!—How I wish thou hadst been seized by a tiger or an old bear, who was prowling for a skakàl, like thyself!

Duskm. We are now, Bhadraséna, encamped near a sacred hermitage; and I cannot at present applaud your panegyrick on hunting. This day, therefore, let the wild buffalos roll undisturbed in the shallow water, or toss up the sand with their horns; let the herd of antelopes, assembled under the thick shade, ruminate without fear; let the large boars root up the herbage on the brink of yon pool; and let this my bow take repose with a slackened string.

Gen. As our lord commands.

Duskm. Recall the archers who have advanced before me, and forbid the officers to go very far from this hallowed grove. Let them beware of irritating the pious: holy men are eminent for patient virtues, yet conceal within their bosoms a scorching flame; as carbuncles are naturally cool to the touch; but, if the rays of the sun have been imbibed by them, they burn the hand.

Mádh. Away now, and triumph on the delights of hunting.

Gen. The king's orders are obeyed.

[*He goes out.*]

Dushm. [*To his attendants.*] Put off your hunting apparel ; and thou, Raivatata, continue in waiting at a little distance.

Cham. I shall obey. [*Goes out.*]

Mádh. So ! you have cleared the stage : not even a fly is left on it. Sit down, I pray, on this pavement of smooth pebbles, and the shade of this tree shall be your canopy : I will sit by you ; for I am impatient to know what will give me no fatigue.

Dushm. Go first, and seat thyself.

Mádh. Come, my royal friend.

[*They both sit under a tree.*]

Dushm. Friend Mádhavya, your eyes have not been gratified with an object which best deserves to be seen.

Mádh. Yes, truly ; for a king is before them.

Dushm. All men are apt, indeed, to think favourably of themselves ; but I meant Sacontalá, the brightest ornament of these woods.

Mádh. [*Aside.*] I must not foment this passion. — [*Aloud.*] What can you gain by seeing her ? She is a Bráhmén's daughter, and consequently no match for you !

Dushm. What ! Do people gaze at the new

moon, with uplifted heads and fixed eyes, from a hope of possessing it? But you must know, that the heart of Dushmanta is not fixed on an object which he must for ever despair of attaining.

Mádh. Tell me how.

Dushm. She is the daughter of a pious prince and warrior, by a celestial nymph; and, her mother having left her on earth, she has been fostered by Canna, even as a fresh blossom of Malati, which droops on its pendant stalk, is raised and expanded by the sun's light.

Mádh. [*Laughing.*] Your desire to possess this rustick girl, when you have women bright as gems in your palace already, is like the fancy of a man, who has lost his relish for dates, and longs for the sour tamarind.

Dushm. Did you know her, you would not talk so wildly.

Mádh. Oh! certainly, whatever a king admires must be superlatively charming.

Dushm. [*Smiling.*] What need is there of long description? When I meditate on the power of Brahmà, and on her lineaments, the creation of so transcendent a jewel outshines, in my apprehension, all his other works: she was formed and moulded in the eternal mind, which had raised with its utmost exertion, the ideas of perfect shapes, and thence made an assemblage of all abstract beauties.

Mádh. She must render, then, all other handsome women contemptible.

Dushm. In my mind she really does. I know not yet what blessed inhabitant of this world will be the possessor of that faultless beauty, which now resembles a blossom whose fragrance has not been diffused; a fresh leaf, which no hand has torn from its stalk; a pure diamond, which no polisher has handled; new honey, whose sweetness is yet untasted; or rather the celestial fruit of collected virtues, to the perfection of which nothing can be added.

Mádh. Make haste, then, or the fruit of all virtues will drop into the hand of some devout rustick, whose hair shines with oil of Ingudi.

Dushm. She is not her own mistress; and her foster-father is at a distance.

Mádh. How is she disposed towards you?

Dushm. My friend, the damsels in a hermit's family are naturally reserved: yet she did look at me, wishing to be unperceived; then she smiled, and started a new subject of conversation. Love is by nature averse to a sudden communication, and hitherto neither fully displays, nor wholly conceals, himself in her demeanour towards me.

Mádh. [*Laughing.*] Has she thus taken possession of your heart on so transient a view?

Dushm. When she walked about with her

female friends, I saw her yet more distinctly, and my passion was greatly augmented. She said sweetly, but untruly, "My foot is hurt by the points of the Cusa grass:" then she stopped; but soon, advancing a few paces, turned back her face, pretending a wish to disentangle her vest of woven bark from the branches in which it had not really been caught.

Mádh. You began with chasing an antelope, and have now started new game: thence it is, I presume, that you are grown so fond of a consecrated forest.

Dushm. Now the business for you, which I mentioned, is this: you, who are a Bráhmén, must find some expedient for my second entrance into that asylum of virtue.

Mádh. And the advice which I give is this: remember that you are a king.

Dushm. What then?

Mádh. "Holla! bid the hermits bring my sixth part of their grain." Say this, and enter the grove without scruple.

Dushm. No, Mádhavya: they pay a different tribute, who, having abandoned all the gems and gold of this world, possess riches far superior. The wealth of princes, collected from the four orders of their subjects, is perishable; but pious men give us a sixth part of the fruits of their piety; fruits which will never perish.

Behind the scenes.] Happy men that we are! we have now attained the object of our desire.

Dushm. Hah! I hear the voices of some religious anchorites.

The Chamberlain enters.

Cham. May the king be victorious!—Two young men, sons of a hermit, are waiting at my station, and soliciting an audience.

Dushm. Introduce them without delay.

Cham. As the king commands.—[*He goes out, and re-enters with two Bráhmens.*]—Come on; come this way.

First Bráhm. [*Looking at the king.*] Oh! what confidence is inspired by his brilliant appearance!—Or proceeds it rather from his disposition to virtue and holiness?—Whence comes it, that my fear vanishes?—He now has taken his abode in a wood which supplies us with every enjoyment; and with all his exertions for our safety, his devotion increases from day to day.—The praise of a monarch who has conquered his passions ascends even to heaven: inspired bards are continually singing, “Behold a virtuous prince!” but with us the royal name stands first: “Behold, among kings, a sage!”

Second Bráhm. Is this, my friend, the truly virtuous Dushmanta?

First Bráhm. Even he.

Second Bráhm. It is not then wonderful, that he alone, whose arm is lofty and strong as the main bar of his city gate, possesses the whole earth, which forms a dark boundary to the ocean; or that the gods of Swerga, who fiercely contend in battle with evil powers, proclaim victory gained by his braced bow, not by the thunderbolt of INDRA.

Both. [*Approaching him.*] O king, be victorious!

Dushm. [*Rising.*] I humbly salute you both.

Both. Blessings on thee!

Dushm. [*Respectfully.*] May I know the cause of this visit?

First Bráhm. Our sovereign is hailed by the pious inhabitants of these woods; and they implore——

Dushm. What is their command?

First Bráhm. In the absence of our spiritual guide, Canna, some evil demons are disturbing our holy retreat. Deign, therefore, accompanied by thy charioteer, to be master of our asylum, if it be only for a few short days.

Dushm. [*Eagerly.*] I am highly favoured by your invitation.

Mádh. [*Aside.*] Excellent promoters of your design! They draw you by the neck, but not against your will.

Dushm. Raivataca, bid my charioteer bring my car, with my bow and quiver.

Cham. I obey. [He goes out.

First Bráhm. Such condescension well becomes thee, who art an universal guardian,

Second Bráhm. Thus do the descendants of Puru perform their engagement to deliver their subjects from fear of danger.

Dushm. Go first, holy men: I will follow instantly.

Both. Be ever victorious! [They go out.

Dushm. Shall you not be delighted, friend Mádhavya, to see my Sacontalá?

Mádh. At first I should have had no objection; but I have a considerable one since the story of the demons.

Dushm. Oh! fear nothing: you will be near me,

Mádh. And you, I hope, will have leisure to protect me from them.

The Chamberlain re-enters.

Cham. May our lord be victorious! The imperial car is ready; and all are expecting your triumphant approach. Carabba too, a messenger from the queen-mother, is just arrived from the city.

Dushm. Is he really come from the venerable queen?

Cham. There can be no doubt of it.

Dushm. Let him appear before me.

[The Chamberlain goes out, and returns with the Messenger.

Cham. There stands the king—O Carabba, approach him with reverence.

Mess. [*Prostrating himself.*] May the king be ever victorious!—The royal mother sends this message—

Dushm. Declare her command.

Mess. Four days hence the usual fast for the advancement of her son will be kept with solemnity; and the presence of the king (may his life be prolonged!) will then be required.

Dushm. On one hand is a commission from holy Bráhmens; on the other, a command from my revered parent: both duties are sacred, and neither must be neglected.

Mádh. [*Laughing.*] Stay suspended between them both, like king Trifancu between heaven and earth; when the pious men said, “Rise!” and the gods of Swerga said, “Fall!”

Dushm. In truth I am greatly perplexed. My mind is principally distracted by the distance of the two places where the two duties are to be performed; as the stream of a river is divided by rocks in the middle of its bed.—[*Musing.*]—Friend Mádhavya, my mother brought you up as her own son, to be my playfellow, and to divert me in my childhood. You may very properly act my part in the queen’s devotions. Return then to the city, and give an account of my distress through the commission of these reverend foresters.

Mádh. That I will ;—but you could not really suppose that I was afraid of demons !

Dushm. How come you, who are an egregious Bráhmén, to be so bold on a sudden ?

Mádh. Oh ! I am now a young king.

Dushm. Yes, certainly ; and I will dispatch my whole train to attend your highness, whilst I put an end to the disturbance in this hermitage.

Mádh. [*Strutting.*] See, I am a prince regnant.

Dushm. [*Aside.*] This buffoon of a Bráhmén has a slippery genius. He will perhaps disclose my present pursuit to the women in the palace. I must try to deceive him.—[*Taking Mádhavya by the hand.*]—I shall enter the forest, be assured, only through respect for its pious inhabitants ; not from any inclination for the daughter of a hermit. How far am I raised above a girl educated among antelopes ; a girl, whose heart must ever be a stranger to love !—The tale was invented for my diversion.

Mádh. Yes, to be sure ; only for your diversion.

Dushm. Then farewell, my friend ; execute my commission faithfully, whilst I proceed—to defend the anchorites. [*All go out.*]

ACT III.

SCENE—*The HERMITAGE in a Grove.*

The Hermit's Pupil bearing consecrated grafs.

Pupil. [Meditating with wonder.]

HOW great is the power of Dushmanta!—The monarch and his charioteer had no sooner entered the grove than we continued our holy rites without interruption.—What words can describe him?—By his barely aiming a shaft, by the mere sound of his bow-string, by the simple murmur of his vibrating bow, he disperses at once our calamities.—Now then I deliver to the priests this bundle of fresh Cusa grafs to be scattered round the place of sacrifice—*[Looking behind the scenes.]*—Ah! Priyamvadá, for whom are you carrying that ointment of Usíra root, and those leaves of water lilies?—*[Listening attentively.]*—What say you?—That Sacontalá is extremely disordered by the sun's heat, and that you have procured for her a cooling medicine! Let her, my Priyamvadá, be diligently attended; for she is the darling of our venerable father Canna.—I will administer, by the hand of Gau-

tamí, some healing water consecrated in the ceremony called Vaitána, [He goes out.

Dushmanta *enters, expressing the distraction of a lover.*

Dushm. I well know the power of her devotion: that she will suffer none to dispose of her but Canna, I too well know. Yet my heart can no more return to its former placid state, than water can reascend the steep, down which it has fallen.—O God of Love, how can thy darts be so keen, since they are pointed with flowers?—Yes, I discover the reason of their keenness. They are tipped with the flames which the wrath of Hara kindled, and which blaze at this moment, like the Bárava fire under the waves: how else couldst thou, who wast consumed even to ashes, be still the inflamer of our souls? By thee and by the moon, though each of you seems worthy of confidence, we lovers are cruelly deceived. They who love as I do, ascribe flowery shafts to thee, and cool beams to the moon, with equal impropriety; for the moon sheds fire on them with her dewy rays, and thou pointest with sharp diamonds those arrows which seem to be barbed with blossoms. Yet this god, who bears a fish on his banners, and who wounds me to the soul, will give me real delight, if he destroy me with the aid of my beloved, whose

eyes are large and beautiful as those of a roe.—O powerful divinity, even when I thus adore thy attributes, hast thou no compassion? Thy fire, O Love, is fanned into a blaze by a hundred of my vain thoughts.—Does it become thee to draw thy bow even to thy ear, that the shaft, aimed at my bosom, may inflict a deeper wound? Where now can I recreate my afflicted soul by the permission of those pious men whose uneasiness I have removed by dismissing my train? —[*Sighing.*]—I can have no relief but from a sight of my beloved.—[*Looking up.*]—This intensely hot noon must, no doubt, be passed by Sacotalá with her damsels on the banks of this river over-shadowed with Tamálas.—It must be so:—I will advance thither.—[*Walking round and looking.*]—My sweet friend has, I guess, been lately walking under that row of young trees; for I see the stalks of some flowers, which probably she gathered, still unshrivelled; and some fresh leaves, newly plucked, still dropping milk.—[*Feeling a breeze.*]—Ah! this bank has a delightful air!—Here may the gale embrace me, wafting odours from the water lilies, and cool my breast, inflamed by the bodiless god, with the liquid particles which it catches from the waves of the Málini.—[*Looking down.*]—Happy lover! Sacotalá must be somewhere in this grove of flowering creepers; for I discern

on the yellow sand at the door of yon harbour some recent footsteps, raised a little before, and depressed behind by the weight of her elegant limbs.—I shall have a better view from behind this thick foliage.—[*He conceals himself, looking vigilantly.*]—Now are my eyes fully gratified. The darling of my heart, with her two faithful attendants, reposes on a smooth rock strown with fresh flowers.—These branches will hide me, whilst I hear their charming conversation.

[*He stands concealed, and gazes.*]

Sacotalá and her two Damsels discovered.

Both. [*Fanning her.*] Say, beloved Sacotalá, does the breeze, raised by our fans of broad lotus leaves, refresh you?

Sac. [*Mournfully.*] Why, alas, do my dear friends take this trouble?

[*Both look sorrowfully at each other.*]

Dushm. [*Aside.*] Ah! she seems much indisposed. What can have been the fatal cause of so violent a fever?—Is it what my heart suggests? Or—[*Musing*]—I am perplexed with doubts.—The medicine extracted from the balmy *Usíra* has been applied, I see, to her bosom: her only bracelet is made of thin filaments from the stalks of a water lily, and even that is loosely bound on her arm. Yet, even thus disordered, she is exquisitely beautiful.—Such are the hearts of

the young ! Love and the fun equally inflame us ; but the scorching heat of summer leads not equally to happiness with the ardour of youthful desires.

Pri. [*Aside to Anusúyá.*] Did you not observe how the heart of Sacontalá was affected by the first sight of our pious monarch ? My suspicion is, that her malady has no other cause.

Anu. [*Aside to Priyamvadá.*] The same suspicion had risen in my mind. I will ask her at once.—[*Aloud.*]—My sweet Sacontalá, let me put one question to you. What has really occasioned your indisposition ?

Dushm. [*Aside.*] She must now declare it. Ah ! though her bracelets of lotos are bright as moon beams, yet they are marked, I see, with black spots from internal ardour.

Sac. [*Half raising herself.*] Oh ! say what you suspect to have occasioned it.

Anu. Sacontalá, we must necessarily be ignorant of what is passing in your breast ; but I suspect your case to be that which we have often heard related in tales of love. Tell us openly what causes your illness. A physician, without knowing the cause of a disorder, cannot even begin to apply a remedy.

Dushm. [*Aside.*] I flatter myself with the same suspicion.

Sac. [*Aside.*] My pain is intolerable ; yet I cannot hastily disclose the occasion of it.

Pri. My sweet friend, Anusúyá, speaks rationally. Consider the violence of your indisposition. Every day you will be more and more emaciated, though your exquisite beauty has not yet forsaken you.

Dushm. [*Aside.*] Most true. Her forehead is parched; her neck droops; her waist is more slender than before; her shoulders languidly fall; her complexion is wan; she resembles a Mádhaví creeper, whose leaves are dried by a sultry gale: yet, even thus transformed, she is lovely, and charms my soul.

Sac. [*Sighing.*] What more can I say? Ah! why should I be the occasion of your sorrow?

Pri. For that very reason, my beloved, we are solicitous to know your secret; since, when each of us has a share of your uneasiness, you will bear more easily your own portion of it.

Dushm. [*Aside.*] Thus urged by two friends, who share her pains as well as her pleasures, she cannot fail to disclose the hidden cause of her malady; whilst I, on whom she looked at our first interview with marked affection, am filled with anxious desire to hear her answer.

Sac. From the very instant when the accomplished prince, who has just given repose to our hallowed forest, met my eye——

[*She breaks off, and looks modest.*

Both. Speak on, beloved Sacontalá.

Sac. From that instant my affection was un-

alterably fixed on him—and thence I am reduced to my present languor.

Anu. Fortunately your affection is placed on a man worthy of yourself.

Pri. Oh! could a fine river have deserted the sea and flowed into a lake?

Dushm. [*Joyfully.*] That which I was eager to know, her own lips have told. Love was the cause of my distemper, and love has healed it; as a summer's day, grown black with clouds, relieves all animals from the heat which itself had caused.

Sac. If it be no disagreeable task, contrive, I entreat you, some means by which I may find favour in the king's eyes.

Dushm. [*Aside.*] That request banishes all my cares, and gives me rapture even in my present uneasy situation.

Pri. [*Aside to Anufúyá.*] A remedy for her, my friend, will scarce be attainable. Exert all the powers of your mind; for her illness admits of no delay.

Anu. [*Aside to Priyamvadá.*] By what expedient can her cure be both accelerated and kept secret?

Pri. [*As before.*] Oh! to keep it secret will be easy; but to attain it soon, almost insuperably difficult.

Anu. [*As before.*] How so?

Pri. The young king seemed, I admit, by his tender glances, to be enamoured of her at first sight; and he has been observed, within these few days, to be pale and thin, as if his passion had kept him long awake.

Dushm. [*Aside.*] So it has——This golden bracelet, sullied by the flame which preys on me, and which no dew mitigates, but the tears gushing nightly from these eyes, has fallen again and again on my wrist, and has been replaced on my emaciated arm.

Pri. [*Aloud.*] I have a thought, Anusúyá—Let us write a love letter, which I will conceal in a flower, and, under the pretext of making a respectful offering, deliver it myself into the king's hand.

Anu. An excellent contrivance! It pleases me highly;—but what says our beloved Sacontalá?

Sac. I must consider, my friend, the possible consequences of such a step.

Pri. Think also of a verse or two, which may suit your passion, and be consistent with the character of a lovely girl born in an exalted family.

Sac. I will think of them in due time; but my heart flutters with the apprehension of being rejected.

Dushm. [*Aside.*] Here stands the man supremely blessed in thy presence, from whom, O timid girl, thou art apprehensive of a refusal!

Here stands the man, from whom, O beautiful maid, thou fearest rejection, though he loves thee distractedly. He who shall possess thee will seek no brighter gem; and thou art the gem which I am eager to possess.

Anu. You depreciate, Sacontalá, your own incomparable merits. What man in his senses would intercept with an umbrella the moonlight of autumn, which alone can allay the fever caused by the heat of the noon?

Sac. [*Smiling.*] I am engaged in thought.

[*She meditates.*

Dushm. Thus then I fix my eyes on the lovely poetess, without closing them a moment, while she measures the feet of her verse: her forehead is gracefully moved in cadence, and her whole aspect indicates pure affection.

Sac. I have thought of a couplet; but we have no writing implements.

Pri. Let us hear the words; and then I will mark them with my nail on this lotos leaf, soft and green as the breast of a young paroquet: it may easily be cut into the form of a letter.—Repeat the verses.

Sac. “Thy heart, indeed, I know not: but
“mine, oh! cruel, love warms by day and by
“night; and all my faculties are centered on
“thee.”

Dushm. [*Hastily advancing, and pronouncing a verse in the same measure.*] “Thee, O slender

“ maid, love only warms ; but me he burns ;
 “ as the day-star only stifles the fragrance of the
 “ night-flower, but quenches the very orb of
 “ the moon.”

Anu. [*Looking at him joyfully.*] Welcome, great king : the fruit of my friend's imagination has ripened without delay.

[*Sacontalá expresses an inclination to rise.*

Dushm. Give yourself no pain. Those delicate limbs, which repose on a couch of flowers, those arms, whose bracelets of lotos are disarranged by a slight pressure, and that sweet frame, which the hot noon seems to have disordered, must not be fatigued by ceremony.

Sac. [*Aside.*] O my heart, canst thou not rest at length after all thy sufferings ?

Anu. Let our sovereign take for his seat a part of the rock on which she reposes.

[*Sacontalá makes a little room.*

Dushm. [*Seating himself.*] Priyamvadá, is not the fever of your charming friend in some degree abated ?

Pri. [*Smiling.*] She has just taken a salutary medicine, and will soon be restored to health. But, O mighty prince, as I am favoured by you and by her, my friendship for Sacontalá prompts me to converse with you for a few moments.

Dushm. Excellent damsel, speak openly ; and suppress nothing.

Pri. Our lord shall hear.

Dushm. I am attentive.

Pri. By dispelling the alarms of our pious hermits, you have discharged the duty of a great monarch.

Dushm. Oh ! talk a little on other subjects.

Pri. Then I must inform you that our beloved companion is enamoured of you, and has been reduced to her present languor by the resistless divinity, love. You only can preserve her inestimable life.

Dushm. Sweet Priyamvadá, our passion is reciprocal ; but it is I who am honoured.

Sac. [*Smiling, with a mixture of affection and resentment.*] Why should you detain the virtuous monarch, who must be afflicted by so long an absence from the secret apartments of his palace ?

Dushm. This heart of mine, oh thou who art of all things the dearest to it, will have no object but thee, whose eyes enchant me with their black splendour, if thou wilt but speak in a milder strain. I, who was nearly slain by love's arrow, am destroyed by thy speech.

Anu. [*Laughing.*] Princes are said to have many favourite consorts. You must assure us, therefore, that our beloved friend shall not be exposed to affliction through our conduct.

Dushm. What need is there of many words ? Let there be ever so many women in my pa-

lace, I will have only two objects of perfect regard; the sea-girt earth, which I govern, and your sweet friend, whom I love.

Both. Our anxiety is dissipated.

[Sacontalá *strives in vain to conceal her joy.*

Pri. [*Aside to Anusúyá.*] See how our friend recovers her spirits by little and little, as the peahen, oppressed by the summer heat, is refreshed by a soft gale and a gentle shower.

Sac. [*To the damsels.*] Forgive, I pray, my offence in having used unmeaning words: they were uttered only for your amusement in return for your tender care of me.

Pri. They were the occasion, indeed, of our serious advice. But it is the king who must forgive: who else is offended?

Sac. The great monarch will, I trust, excuse what has been said either before him or in his absence.—[*Aside to the damsels.*] Intercede with him, I entreat you.

Dushm. [*Smiling.*] I would cheerfully forgive any offence, lovely Sacontalá, if you, who have dominion over my heart, would allow me full room to sit by you, and recover from my fatigue, on this flowery couch pressed by your delicate limbs.

Pri. Allow him room; it will appease him, and make him happy.

Sac. [*Pretending anger, aside to Priyamvadá.*]

Be quiet, thou mischief-making girl! Dost thou sport with me in my present weak state?

Anu. [*Looking behind the scenes.*] O! my Priyamvadá, there is our favourite young antelope running wildly and turning his eyes on all sides: he is, no doubt, seeking his mother, who has rambled in the wide forest. I must go and assist his search.

Pri. He is very nimble; and you alone will never be able to confine him in one place. I must accompany you.

[*Both going out.*]

Sac. Alas! I cannot consent to your going far: I shall be left alone.

Both. [*Smiling.*] Alone! with the sovereign of the world by your side!

[*They go out.*]

Sac. How could my companions both leave me?

Dushm. Sweet maid, give yourself no concern. Am not I, who humbly solicit your favour, present in the room of them?—[*Aside.*]—I must declare my passion.—[*Aloud.*]—Why should not I, like them, wave this fan of lotos leaves, to raise cool breezes and dissipate your uneasiness? Why should not I, like them, lay softly in my lap those feet, red as water lilies, and press them, O my charmer, to relieve your pain?

Sac. I should offend against myself, by receiving homage from a person entitled to my respect.

[*She rises, and walks slowly through weakness.*]

Dushm. The noon, my love, is not yet passed; and your sweet limbs are weak. Having left that couch where fresh flowers covered your bosom, you can ill sustain this intense heat with so languid a frame. [*He gently draws her back.*]

Sac. Leave me, oh leave me. I am not, indeed, my own mistress, or—the two damsels were only appointed to attend me. What can I do at present?

Dushm. [*Aside.*] Fear of displeasing her makes me bashful.

Sac. [*Overbearing him.*] The king cannot give offence. It is my unhappy fate only that I accuse.

Dushm. Why should you accuse so favourable a destiny?

Sac. How rather can I help blaming it, since it has permitted my heart to be affected by amiable qualities, without having left me at my own disposal?

Dushm. [*Aside.*] One would imagine that the charming sex, instead of being, like us, tormented with love, kept love himself within their hearts, to torment him with delay.

[*Sacontalá going out.*]

Dushm. [*Aside.*] How! must I then fail of attaining felicity?

[*Following her, and catching the skirt of her mantle.*

Sac. [*Turning back.*] Son of Puru, preserve thy reason; oh! preserve it.—The hermits are busy on all sides of the grove.

Dushm. My charmer, your fear of them is vain. Canna himself, who is deeply versed in the science of law, will be no obstacle to our union. Many daughters of the holiest men have been married by the ceremony called Gándharva, as it is practised by Indra's band, and even their fathers have approved them.—[*Looking round.*]—What say you? are you still inflexible? Alas! I must then depart.

[*Going from her a few paces, then looking back.*

Sac. [*Moving also a few steps, and then turning back her face.*] Though I have refused compliance, and have only allowed you to converse with me for a moment, yet, O son of Puru—let not Sacontalá be wholly forgotten.

Dushm. Enchanting girl, should you be removed to the ends of the world, you will be fixed in this heart, as the shade of a lofty tree remains with it even when the day is departed.

Sac. [*Going out, aside.*] Since I have heard his protestations, my feet move, indeed, but

without advancing. I will conceal myself behind those flowering Curuvacas, and thence I shall see the result of his passion.

[She hides herself behind the shrubs.]

Dushm. [Aside.] Can you leave me, beloved Sacontalá; me who am all affection? Could you not have tarried a single moment? Soft is your beautiful frame, and indicates a benevolent soul; yet your heart is obdurate: as the tender Sirisha hangs on a hard stalk.

Sac. [Aside.] I really have now lost the power of departing.

Dushm. [Aside.] What can I do in this retreat since my darling has left it?—*[Musing and looking round.]*—Ah! my departure is happily delayed.—Here lies her bracelet of flowers, exquisitely perfumed by the root of Usíra which had been spread on her bosom: it has fallen from her delicate wrist, and is become a new chain for my heart.

[Taking up the bracelet with reverence.]

Sac. [Aside, looking at her hand.] Ah me! such was my languor, that the filaments of lotos stalks which bound my arm dropped on the ground unperceived by me.

Dushm. [Aside, placing it in his bosom.] Oh! how delightful to the touch!—From this ornament of your lovely arm, O my darling, though it be inanimate and senseless, your unhappy lover

has regained confidence—a bliss which you refused to confer.

Sac. [*Aside.*] I can stay here no longer. By this pretext I may return.

[*Going slowly towards him.*

Dushm. [*With rapture.*] Ah! the empress of my soul again blesses these eyes. After all my misery I was destined to be favoured by indulgent heaven.—The bird Chátac, whose throat was parched with thirst, supplicated for a drop of water, and suddenly a cool stream poured into his bill from the bounty of a fresh cloud.

Sac. Mighty king, when I had gone half way to the cottage, I perceived that my bracelet of thin stalks had fallen from my wrist; and I return because my heart is almost convinced that you must have seen and taken it. Restore it, I humbly entreat, lest you expose both yourself and me to the censure of the hermits.

Dushm. Yes, on one condition I will return it.

Sac. On what condition? Speak——

Dushm. That I may replace it on the wrist to which it belongs.

Sac. [*Aside.*] I have no alternative.

[*Approaching him.*

Dushm. But in order to replace it, we must both be seated on that smooth rock.

[*Both sit down.*

Dushm. [*Taking her hand.*] O exquisite softness ! This hand has regained its native strength and beauty, like a young shoot of Cálalatà : or it resembles rather the god of love himself, when, having been consumed by the fire of Hara's wrath, he was restored to life by a shower of nectar sprinkled by the immortals.

Sac. [*Pressing his hand.*] Let the son of my lord make haste to tie on the bracelet.

Dushm. [*Aside, with rapture.*] Now I am truly blessed.—That phrase, the son of my lord, is applied only to a husband.—[*Aloud.*]—My charmer, the clasp of this bracelet is not easily loosened : it must be made to fit you better.

Sac. [*Smiling.*] As you please.

Dushm. [*Quitting her hand.*] Look, my darling : this is the new moon which left the firmament in honour of superior beauty, and, having descended on your enchanting wrist, has joined both its horns round it in the shape of a bracelet.

Sac. I really see nothing like a moon : the breeze, I suppose, has shaken some dust from the lotos flower behind my ears, and that has obscured my sight.

Dushm. [*Smiling.*] If you permit me, I will blow the fragrant dust from your eye.

Sac. It would be a kindness ; but I cannot trust you.

Dushm. Oh! fear not, fear not. A new servant never transgresses the command of his mistress.

Sac. But a servant over-affiduous deserves no confidence.

Dushm. [*Aside.*] I will not let slip this charming occasion.—[*Attempting to raise her head—Sacontalá faintly repels him, but sits still.*]—O damsel with an antelope's eyes, be not apprehensive of my indiscretion.—[*Sacontalá looks up for a moment, and then bashfully drops her head—Dushmanta, aside, gently raising her head.*]—That lip, the softness of which is imagined, not proved, seems to pronounce, with a delightful tremour, its permission for me to allay my thirst.

Sac. The son of my lord seems inclined to break his promise.

Dushm. Beloved, I was deceived by the proximity of the lotos to that eye which equals it in brightness. [*He blows gently on her eye.*]

Sac. Well: now I see a prince who keeps his word as it becomes his imperial character. Yet I am really ashamed that no desert of mine entitles me to the kind service of my lord's son.

Dushm. What reward can I desire, except that which I consider as the greatest, the fragrance of your delicious lip?

Sac. Will that content you?

Dushm. The bee is contented with the mere odour of the water lily.

Sac. If he were not, he would get no remedy.

Dushm. Yes, this and this——

[*Kissing her eagerly.*

Behind the scenes. Hark! the Chacraváca is calling her mate on the bank of the Málinì: the night is beginning to spread her shades.

Sac. [*Listening alarmed.*] O son of my lord, the matron Gautamí approaches to enquire after my health. Hide yourself, I entreat, behind yon trees.

Dushm. I yield to necessity. [*He retires.*

Gautamí enters with a vase in her hand.

Gaut. [*Looking anxiously at Sacontalá.*] My child, here is holy water for thee.—What! hast thou no companion here but the invifible gods; thou who art fo much indisposed?

Sac. Both Priyamvadá and Anufúyá are juft gone down to the river.

Gaut. [*Sprinkling her.*] Is thy fever, my child, a little abated?

[*Feeling her hand.*

Sac. Venerable matron, there is a change for the better.

Gaut. Then thou art in no danger. Mayft thou live many years! The day is departing: let us both go to the cottage.

Sac. [*Aside, rising slowly.*] O my heart, no sooner hadst thou begun to taste happiness, than the occasion slipped away! [*She advances a few steps, and returns to the arbour.*—O bower of twining plants, by whom my sorrows have been dispelled, on thee I call; ardently hoping to be once more happy under thy shade.

[*She goes out with Gautamí.*

Dushm. [*Returning to the bower, and sighing.*] How, alas, have my desires been obstructed!—Could I do less than kiss the lips of my charmer, though her modest cheeks were half averted; lips, whose sweetness had enchanted me, even when they pronounced a denial?—Whither now can I go? I will remain a while in this arbour of creepers, which my darling's presence has illuminated.—[*Looking round.*]—Yes; this is her seat on the rock, spread with blossoms, which have been pressed by her delicate limbs.—Here lies her exquisite love letter on the leaf of a water lily; here lay her bracelet of tender filaments which had fallen from her sweet wrist.—Though the bower of twining Vétasas be now desolate, since my charmer has left it, yet, while my eyes are fixed on all these delightful memorials of her, I am unable to depart.—[*Musing.*]—Ah! how imperfectly has this affair been conducted by a lover, like me, who, with his darling by his side, has let the occasion slip.—Should Sacontalá

visit once more this calm retreat, the opportunity shall not pass again unimproved: the pleasures of youth are by nature transitory.—Thus my foolish heart forms resolutions, while it is distracted by the sudden interruption of its happiness. Why did it ever allow me to quit without effect the presence of my beloved?

Behind the scenes. O king, while we are beginning our evening sacrifice, the figures of blood-thirsty demons, embrowned by clouds collected at the departure of day, glide over the sacred hearth, and spread consternation around.

Dushm. Fear not, holy men.—Your king will protect you, [*He goes out.*]

ACT IV.

SCENE—A LAWN before the Cottage.

The two damsels are discovered gathering flowers.

Anufúyá.

O MY Priyamvadá, though our sweet friend has been happily married, according to the rites of Gandharvas, to a bridegroom equal in rank and accomplishments, yet my affectionate heart is not wholly free from care; and one doubt gives me particular uneasiness.

Pri. What doubt, my Anufúyá?

Anu. This morning the pious prince was dismissed with gratitude by our hermits, who had then completed their mystick rites: he is now gone to his capital, Hastinápura, where, surrounded by a hundred women in the recesses of his palace, it may be doubted whether he will remember his charming bride.

Pri. In that respect you may be quite easy. Men, so well informed and well educated as he, can never be utterly destitute of honour.—We have another thing to consider. When our father Canna shall return from his pilgrimage, and

shall hear what has passed, I cannot tell how he may receive the intelligence.

Anu. If you ask my opinion, he will, I think, approve of the marriage.

Pri. Why do you think so?

Anu. Because he could desire nothing better, than that a husband so accomplished and so exalted should take Sacontalá by the hand. It was, you know, the declared object of his heart, that she might be suitably married; and, since heaven has done for him what he most wished to do, how can he possibly be dissatisfied?

Pri. You reason well; but—[*Looking at her basket.*—My friend, we have plucked a sufficient store of flowers to scatter over the place of sacrifice.

Anu. Let us gather more to decorate the temples of the goddesses who have procured for Sacontalá so much good fortune.

[*They both gather more flowers.*

Behind the scenes. It is I——Hola!

Anu. [*Listening.*] I hear the voice, as it seems, of a guest arrived in the hermitage.

Pri. Let us hasten thither. Sacontalá is now reposing; but though we may, when she wakes, enjoy her presence, yet her mind will all day be absent with her departed lord.

Anu. Be it so; but we have occasion, you know, for all these flowers. [*They advance.*

Again behind the scenes. How! dost thou show no attention to a guest? Then hear my imprecations——“He on whom thou art meditating, on whom alone thy heart is now fixed, while thou neglectest a pure gem of devotion who demands hospitality, shall forget thee, when thou seeest him next, as a man restored to sobriety forgets the words which he uttered in a state of intoxication.”

[Both damsels look at each other with affliction.]

Pri. Wo is me! Dreadful calamity! Our beloved friend has, through mere absence of mind, provoked by her neglect, some holy man who expected reverence.

Anu. *[Looking.]* It must be so; for the cholerick Durváśas is going hastily back.

Pri. Who else has power to consume, like raging fire, whatever offends him? Go, my Anusúyá; fall at his feet, and persuade him, if possible, to return: in the mean time I will prepare water and refreshments for him.

Anu. I go with eagerness. *[She goes out.]*

Pri. *[Advancing hastily, her foot slips.]* Ah! through my eager haste I have let the basket fall; and my religious duties must not be postponed. *[She gathers fresh flowers.]*

Anusúyá re-enters.

Anu. His wrath, my beloved, passes all bounds.

—Who living could now appease him by the humblest prostrations or entreaties? yet at last he a little relented.

Pri. That little is a great deal for him.—But inform me how you soothed him in any degree.

Anu. When he positively refused to come back, I threw myself at his feet, and thus addressed him: “Holy sage, forgive, I entreat, “the offence of an amiable girl, who has the “highest veneration for you, but was ignorant, “through distraction of mind, how exalted a personage was calling to her.”

Pri. What then? What said he?

Anu. He answered thus: “My word must “not be recalled; but the spell which it has “raised shall be wholly removed when her lord “shall see his ring.” Saying this, he disappeared.

Pri. We may now have confidence; for before the monarch departed, he fixed with his own hand on the finger of Sacontalá the ring, on which we saw the name Dushmanta engraved, and which we will instantly recognize. On him therefore alone will depend the remedy for our misfortune.

Anu. Come, let us now proceed to the shrines of the goddesses, and implore their succour.

[Both advance.

Pri. [Looking.] See, my Anusúyá, where our

beloved friend sits, motionless as a picture, supporting her languid head with her left hand. With a mind so intent on one object, she can pay no attention to herself, much less to a stranger.

Anu. Let the horrid imprecation, Priyam-vadā, remain a secret between us two: we must spare the feelings of our beloved, who is naturally susceptible of quick emotions.

Pri. Who would pour boiling water on the blossom of a tender Mallicā? [*Both go out.*]

A Pupil of Canna enters.

Pup. I am ordered by the venerable Canna, who is returned from the place of his pilgrimage, to observe the time of the night, and am, therefore, come forth to see how much remains of it. [*Walking round, and observing the heavens.*]—On one side, the moon, who kindles the flowers of the Oshadhī, has nearly sunk in his western bed; and, on the other, the sun, seated behind his charioteer Arun, is beginning his course: the lustre of them both is conspicuous, when they rise and when they set; and by their example should men be equally firm in prosperous and in adverse fortune.—The moon has now disappeared, and the night flower pleases no more: it leaves only a remembrance of its odour, and languishes like a tender bride whose pain is intolerable in the absence of her beloved.—The

ruddy morn impurples the dew drops on the branches of yonder Vadarí; the peacock, shaking off sleep, hastens from the cottages of hermits interwoven with holy grass; and yonder antelope, springing hastily from the place of sacrifice, which is marked with his hoofs, raises himself on high, and stretches his graceful limbs. —How is the moon fallen from the sky with diminished beams! the moon who had set his foot on the head of Suméru, king of mountains, and had climbed, scattering the rear of darkness, even to the central palace of Vishnu! —Thus do the great men of this world ascend with extreme labour to the summit of ambition, but easily and quickly descend from it,

Anusúyá enters meditating.

Anu. [*Aside.*] Such has been the affection of Sacontalá, though she was bred in austere devotion, averse from sensual enjoyments! —How unkind was the king to leave her!

Pup. [*Aside.*] The proper time is come for performing the hóma: I must apprise our preceptor of it. [*He goes out.*]

Anu. The shades of night are dispersed; and I am hardly awake; but were I ever so perfectly in my senses, what could I now do? My hands move not readily to the usual occupations of the morning. —Let the blame be cast on love,

on love only, by whom our friend has been reduced to her present condition, through a monarch who has broken his word.—Or does the imprecation of Durváśas already prevail?—How else could a virtuous king, who made so solemn an engagement, have suffered so long a time to elapse without sending even a message?—Shall we convey the fatal ring to him?—Or what expedient can be suggested for the relief of this incomparable girl, who mourns without ceasing?—Yet what fault has she committed?—With all my zeal for her happiness, I cannot summon courage enough to inform our father Canna that she is pregnant.—What then, oh ! what step can I take to relieve her anxiety?

Priyamvadā enters.

Pri. Come, Anuśūyā, come quickly. They are making suitable preparations for conducting Sacontalā to her husband's palace.

Anu. [*With surprise.*] What say you, my friend?

Pri. Hear me. I went just now to Sacontalā, meaning only to ask if she had slept well—

Anu. What then? oh ! what then?

Pri. She was sitting with her head bent on her knee, when our father Canna, entering her apartment, embraced and congratulated her.—“ My sweet child,” said he, “ there has been a happy omen: the young Bráhmen who offi-

“ciated in our morning sacrifice, though his
 “fight was impeded by clouds of smoke, drop-
 “ped the clarified butter into the very centre of
 “the adorable flame.—Now, since the pious act
 “of my pupil has prospered, my foster child
 “must not be suffered any longer to languish in
 “sorrow; and this day I am determined to send
 “thee from the cottage of the old hermit who
 “bred thee up, to the palace of the monarch who
 “has taken thee by the hand.”

Anu. My friend, who told Canna what passed in his absence?

Pri. When he entered the place where the holy fire was blazing, he heard a voice from heaven pronouncing divine measures.—

Anu. [*Amazed.*] Ah! you astonish me.

Pri. Hear the celestial verse:—“Know that
 “thy adopted daughter, O pious Bráhmén, has
 “received from Dushmanta a ray of glory de-
 “stined to rule the world; as the wood Sami
 “becomes pregnant with mysterious fire.”

Anu. [*Embracing Priyamvadá.*] I am delighted, my beloved; I am transported with joy. But—since they mean to deprive us of our friend so soon as to-day, I feel that my delight is at least equalled by my sorrow.

Pri. Oh! we must submit patiently to the anguish of parting. Our beloved friend will now be happy; and that should console us.

Anu. Let us now make haste to dress her in

bridal array. I have already, for that purpose, filled the shell of a cocoa nut, which you see fixed on an Amra tree, with the fragrant dust of Nágacéfaras : take it down, and keep it in a fresh lotos leaf, whilst I collect some Góráchana from the forehead of a sacred cow, some earth from consecrated ground, and some fresh Cusa grass, of which I will make a paste to ensure good fortune.

Pri. By all means. [*She takes down the perfume.—Anusúyá goes out.*]

Behind the scenes. O Gautamí, bid the two Mifras, Sárngarava and Sáradvata, make ready to accompany my child Sacontalá.

Pri. [*Listening.*] Lose no time, Anusúyá, lose no time. Our father Canna is giving orders for the intended journey to Hastinápura.

Anusúyá re-enters with the ingredients of her charm.

Anu. I am here : let us go, my Priyamvadá.
[*They both advance.*]

Pri. [*Looking.*] There stands our Sacontalá, after her bath at sunrise, while many holy women, who are congratulating her, carry baskets of hallowed grain.—Let us hasten to greet her.

Enter Sacontalá, Gautamí, and female Hermits.

Sac. I prostrate myself before the goddesses.

Gaut. My child, thou canst not pronounce too often the word goddess: thus wilt thou procure great felicity for thy lord.

Herm. Mayst thou, O royal bride, be delivered of a hero! *[The Hermits go out.]*

Both damsels. *[Approaching Sacontalá.]* Beloved friend, was your bath pleasant?

Sac. O! my friends, you are welcome: let us sit a while together. *[They seat themselves.]*

Anu. Now you must be patient, whilst I bind on a charm to secure your happiness.

Sac. That is kind.—Much has been decided this day: and the pleasure of being thus attended by my sweet friends will not soon return.

[Wiping off her tears.]

Pri. Beloved, it is unbecoming to weep at a time when you are going to be so happy.—*[Both damsels burst into tears as they dress her.]*—Your elegant person deserves richer apparel: it is now decorated with such rude flowers as we could procure in this forest.

Canna's Pupil enters with rich clothes.

Pup. Here is a complete dress. Let the queen wear it auspiciously; and may her life be long!

[The women look with astonishment.]

Gaut. My son, Háríta, whence came this apparel?

Pup. From the devotion of our father Canna.

Gaut. What dost thou mean?

Pup. Be attentive. The venerable sage gave this order: "Bring fresh flowers for Sacontalá "from the most beautiful trees;" and suddenly the woodnymphs appeared, raising their hands, which rivalled new leaves in beauty and softness. Some of them wove a lower mantle bright as the moon, the presage of her felicity; another pressed the juice of Lácshà to stain her feet exquisitely red; the rest were busied in forming the gayest ornaments; and they eagerly showered their gifts on us.

Pri. [*Looking at Sacontalá.*] Thus it is, that even the bee, whose nest is within the hollow trunk, does homage to the honey of the lotos flower.

Gaut. The nymphs must have been commissioned by the goddess of the king's fortune, to predict the accession of brighter ornaments in his palace. [*Sacontalá looks modest.*]

Pup. I must hasten to Canna, who is gone to bathe in the Málinì, and let him know the signal kindness of the woodnymphs. [*He goes out.*]

Anu. My sweet friend, I little expected so splendid a dress:—how shall I adjust it properly? —[*Considering.*—] Oh! my skill in painting will supply me with some hints; and I will dispose the drapery according to art.

Sac. I well know your affection for him.

Canna enters meditating.

Can. [*Aside.*] This day must Sacontalá depart: that is resolved; yet my soul is smitten with anguish.—My speech is interrupted by a torrent of tears, which my reason suppresses and turns inward: my very sight is dimmed.—Strange that the affliction of a forester, retired from the haunts of men, should be so excessive!—Oh, with what pangs must they who are fathers of families, be afflicted on the departure of a daughter! [*He walks round musing.*]

Pri. Now, my Sacontalá, you are becomingly decorated: put on this lower vest, the gift of sylvan goddesses.

[*Sacontalá rises, and puts on the mantle.*]

Gaut. My child, thy spiritual father, whose eyes overflow with tears of joy, stands desiring to embrace thee. Hasten, therefore, to do him reverence. [*Sacontalá modestly bows to him.*]

Can. Mayst thou be cherished by thy husband, as Sarmisthà was cherished by Yayāti! Mayst thou bring forth a sovereign of the world, as she brought forth Puru!

Gaut. This, my child, is not a mere benediction; it is a boon actually conferred.

Can. My best beloved, come and walk with me round the sacrificial fire.—[*They all advance.*]
—May these fires preserve thee! Fires which

spring to their appointed stations on the holy hearth, and consume the consecrated wood, while the fresh blades of mysterious Cusa lie scattered around them!—Sacramental fires, which destroy sin with the rising fumes of clarified butter!—*[Sacontalá walks with solemnity round the hearth.]*—Now set out, my darling, on thy auspicious journey.—*[Looking round.]*—Where are the attendants, the two Mifras?

Enter Sárngarava and Sáradvata.

Both. Holy sage, we are here.

Can. My son, Sárngarava, show thy sister her way.

Sárn. Come, damsel.——

[They all advance.]

Can. Hear, all ye trees of this hallowed forest; ye trees, in which the sylvan goddesses have their abode; hear, and proclaim, that Sacontalá is going to the palace of her wedded lord; she who drank not, though thirsty, before you were watered; she who cropped not, through affection for you, one of your fresh leaves, though she would have been pleased with such an ornament for her locks; she whose chief delight was in the season when your branches are spangled with flowers!

CHORUS *of invisible* WOODNYMPHS.

May her way be attended with prosperity !
 May propitious breezes sprinkle, for her delight,
 the odoriferous dust of rich blossoms ! May pools
 of clear water, green with the leaves of the lotos,
 refresh her as she walks ! and may shady
 branches be her defence from the scorching sun-
 beams ! *[All listen with admiration.*

Sárn. Was that the voice of the Cócila wishing a happy journey to Sacontalá?—Or did the nymphs, who are allied to the pious inhabitants of these woods, repeat the warbling of the musical bird, and make its greeting their own ?

Gaut. Daughter, the sylvan goddesses, who love their kindred hermits, have wished you prosperity, and are entitled to humble thanks.

[Sacontalá walks round, bowing to the nymphs.

Sac. *[Aside to Priyamvadá.]* Delighted as I am, O Priyamvadá, with the thought of seeing again the son of my lord, yet, on leaving this grove, my early asylum, I am scarce able to walk.

Pri. You lament not alone.—Mark the affliction of the forest itself when the time of your departure approaches !—The female antelope browses no more on the collected Cusa grass ; and the peahen ceases to dance on the lawn : the very plants of the grove, whose pale

leaves fall on the ground, lose their strength and their beauty.

Sac. Venerable father, suffer me to address this Mádhaví creeper, whose red blossoms inflame the grove.

Can. My child, I know thy affection for it.

Sac. [*Embracing the plant.*] O most radiant of twining plants, receive my embraces, and return them with thy flexible arms: from this day, though removed to a fatal distance, I shall for ever be thine.—O beloved father, consider this creeper as myself.

Can. My darling, thy amiable qualities have gained thee a husband equal to thyself: such an event has been long, for thy sake, the chief object of my heart; and now, since my solicitude for thy marriage is at an end, I will marry thy favourite plant to the bridegroom Amra, who sheds fragrance near her.—Proceed, my child, on thy journey.

Sac. [*Approaching the two damsels.*] Sweet friends, let this Mádhaví creeper be a precious deposit in your hands.

Anu. and Pri. Alas! in whose care shall we be left? [*They both weep.*]

Can. Tears are vain, Anusúyá: our Sacontalá ought rather to be supported by your firmness, than weakened by your weeping.

[*All advance.*]

Sac. Father! when yon female antelope, who now moves slowly from the weight of the young ones with which she is pregnant, shall be delivered of them, send me, I beg, a kind message with tidings of her safety.—Do not forget.

Can. My beloved, I will not forget it.

Sac. [*Advancing, then stopping.*] Ah! what is it that clings to the skirts of my robe, and detains me? [*She turns round, and looks.*

Can. It is thy adopted child, the little fawn, whose mouth, when the sharp points of Cusa-grass had wounded it, has been so often smeared by thy hand with the healing oil of Ingudi; who has been so often fed by thee with a handful of Syámaka grains, and now will not leave the footsteps of his protectress.

Sac. Why dost thou weep, tender fawn, for me, who must leave our common dwelling-place?—As thou wast reared by me when thou hadst lost thy mother, who died soon after thy birth, so will my foster-father attend thee, when we are separated, with anxious care.—Return, poor thing, return—we must part,

[*She bursts into tears.*

Can. Thy tears, my child, ill suit the occasion: we shall all meet again: be firm: see the direct road before thee, and follow it.—When the big tear lurks beneath thy beautiful eyelashes, let thy resolution check its first efforts to

disengage itself.—In thy passage over this earth, where the paths are now high, now low, and the true path seldom distinguished, the traces of thy feet must needs be unequal; but virtue will press thee right onward.

Sárn. It is a sacred rule, holy sage, that a benevolent man should accompany a traveller till he meet with abundance of water; and that rule you have carefully observed: we are now near the brink of a large pool. Give us, therefore, your commands, and return.

Can. Let us rest a while under the shade of this Vata tree——[*They all go to the shade.*]—What message can I send with propriety to the noble Dushmanta?

[*He meditates.*

Anu. [*Aside to Sacotalá.*] My beloved friend, every heart in our asylum is fixed on you alone, and all are afflicted by your departure.—Look; the bird Chacraváca, called by his mate, who is almost hidden by water lilies, gives her no answer; but having dropped from his bill the fibres of lotos stalks which he had plucked, gazes on you with inexpressible tenderness.

Can. My son Sárngarava, remember, when thou shalt present Sacotalá to the king, to address him thus, in my name: “Considering us
“hermits as virtuous, indeed, but rich only in
“devotion, and considering also thy own exalt-

“ed birth, retain thy love for this girl, which
 “arose in thy bosom without any interference of
 “her kindred; and look on her among thy
 “wives with the same kindness which they ex-
 “perience: more than that cannot be demand-
 “ed; since particular affection must depend on
 “the will of heaven.”

Sárn. Your message, venerable man, is deeply rooted in my remembrance.

Can. [*Looking tenderly at Sacontalá.*] Now, my darling, thou too must be gently admonished.—We, who are humble foresters, are yet acquainted with the world which we have forsaken.

Sárn. Nothing can be unknown to the wife.

Can. Hear, my daughter——When thou art settled in the mansion of thy husband, show due reverence to him, and to those whom he reveres: though he have other wives, be rather an affectionate handmaid to them than a rival.—Should he displease thee, let not thy resentment lead thee to disobedience.—In thy conduct to thy domesticks be rigidly just and impartial; and seek not eagerly thy own gratifications.—By such behaviour young women become respectable; but perverse wives are the bane of a family.—What thinks Gautamí of this lesson?

Gaut. It is incomparable:——my child, be sure to remember it.

Can. Come, my beloved girl, give a parting embrace to me and to thy tender companions.

Sac. Must Anusúyá and Priyamvadá return to the hermitage?

Can. They too, my child, must be suitably married; and it would not be proper for them yet to visit the city; but Gautamí will accompany thee.

Sac. [*Embracing him.*] Removed from the bosom of my father, like a young sandal tree, rent from the hills of Malaya, how shall I exist in a strange soil?

Can. Be not so anxious. When thou shalt be mistress of a family, and consort of a king, thou mayst, indeed, be occasionally perplexed by the intricate affairs which arise from exuberance of wealth, but wilt then think lightly of this transient affliction, especially when thou shalt have a son (and a son thou wilt have) bright as the rising day-star.—Know also with certainty, that the body must necessarily, at the appointed moment, be separated from the soul: who, then, can be immoderately afflicted, when the weaker bounds of extrinsic relations are loosened, or even broken.

Sac. [*Falling at his feet.*] My father, I thus humbly declare my veneration for you.

Can. Excellent girl, may my effort for thy happiness prove successful.

Sac. [*Approaching her two companions.*] Come, then, my beloved friends, embrace me together.

[*They embrace her.*

Anu. My friend, if the virtuous monarch should not at once recollect you, only show him the ring on which his own name is engraved.

Sac. [*Starting.*] My heart flutters at the bare apprehension which you have raised.

Pri. Fear not, sweet Sacontalá: love always raises ideas of misery, which are seldom or never realised.

Sárn. Holy sage, the sun has risen to a considerable height: let the queen hasten her departure.

Sac. [*Again embracing Canna.*] When, my father, oh! when again shall I behold this asylum of virtue?

Can. Daughter, when thou shalt long have been wedded, like this fruitful earth, to the pious monarch, and shalt have borne him a son, whose car shall be matchless in battle, thy lord shall transfer to him the burden of empire, and thou, with thy Dushmanta, shalt again seek tranquillity, before thy final departure, in this loved and consecrated grove.

Gaut. My child, the proper time for our journey passes away rapidly: suffer thy father to return.—Go, venerable man, go back to thy

manſion, from which ſhe is doomed to be ſo long abſent.

Can. Sweet child, this delay interrupts my religious duties.

Sac. You, my father, will perform them long without ſorrow ; but I, alas ! am deſtined to bear affliction.

Can. O ! my daughter, compel me not to neglect my daily devotions.—[*Sighing.*]—No, my ſorrow will not be diminished.—Can it ceaſe, my beloved, when the plants which riſe luxuriantly from the hallowed grains which thy hand has ſown before my cottage, are continually in my ſight ? Go, may thy journey proſper.

[*Sacontalá goes out with Gautamí and the two Miſras.*]

Both damſels. [*Looking after Sacontalá with anguiſh.*] Alas ! alas ! our beloved is hidden by the thick trees.

Can. My children, ſince your friend is at length departed, check your immoderate grief, and follow me. [*They all turn back.*]

Both. Holy father, the grove will be a perfect vacuity without Sacontalá.

Can. Your affection will certainly give it that appearance.—[*He walks round meditating.*]—Ah me !—Yes ; at laſt my weak mind has attained its due firmneſs after the departure of my Sacontalá.—In truth a daughter muſt ſooner or

later be the property of another; and, having now sent her to her lord, I find my soul clear and undisturbed, like that of a man who has restored to its owner an inestimable deposit which he long had kept with solicitude.

[They go out.]

ACT V.

SCENE—*The PALACE.*

An old Chamberlain, sighing.

Chamberlain.

ALAS! what a decrepit old age have I attained!—This wand, which I first held for the discharge of my customary duties in the secret apartments of my prince, is now my support, whilst I walk feebly through the multitude of years which I have passed.—I must now mention to the king, as he goes through the palace, an event which concerns himself: it must not be delayed.—[*Advancing slowly.*]—What is it?—Oh! I recollect: the devout pupils of Canna desire an audience.—How strange a thing is human life!—The intellects of an old man seem at one time luminous, and then on a sudden are involved in darkness, like the flame of a lamp at the point of extinction.—[*He walks round and looks.*]—There is Dushmanta: he has been attending to his people, as to his own family; and now with a tranquil heart seeks a solitary chamber; as an elephant the chief of his herd, having

grazed the whole morning, and being heated by the meridian sun, repairs to a cool station during the oppressive heats.—Since the king is just risen from his tribunal, and must be fatigued, I am almost afraid to inform him at present that Canna's pupils are arrived: yet how should they who support nations enjoy rest?—The sun yokes his bright steeds for the labour of many hours; the gale breathes by night and by day; the prince of serpents continually sustains the weight of this earth; and equally incessant is the toil of that man, whose revenue arises from a sixth part of his people's income. [*He walks about.*]

Enter Dushmanta, Mádhavya, and Attendants.

Dushm. [*Looking oppressed with business.*] Every petitioner having attained justice, is departed happy; but kings who perform their duties conscientiously are afflicted without end.—The anxiety of acquiring dominion gives extreme pain; and when it is firmly established, the cares of supporting the nation incessantly harass the sovereign; as a large umbrella, of which a man carries the staff in his own hand, fatigues while it shades him.

Behind the scenes. May the king be victorious!

Two Bards repeat stanzas.

First Bard. Thou seekest not thy own plea-

sure: no; it is for the people that thou art harassed from day to day. Such, when thou wast created, was the disposition implanted in thy soul! Thus a branchy tree bears on his head the scorching sunbeams, while his broad shade allays the fever of those who seek shelter under him.

Second Bard. When thou wieldest the rod of justice, thou bringest to order all those who have deviated from the path of virtue: thou biddest contention cease: thou wast formed for the preservation of thy people: thy kindred possess, indeed, considerable wealth; but so boundless is thy affection, that all thy subjects are considered by thee as thy kinsmen.

Dushm. [*Listening.*] That sweet poetry refreshes me after the toil of giving judgements and publick orders.

Mádh. Yes; as a tired bull is refreshed when the people say, "There goes the lord of cattle."

Dushm. [*Smiling.*] Oh! art thou here, my friend: let us take our seats together.

[*The king and Mádhavya sit down.—
Musick behind the scenes.*]

Mádh. Listen, my royal friend. I hear a well-tuned Vínà sounding, as if it were in concert with the lutes of the gods, from yonder apartment.—The queen Hansamatì is preparing, I imagine, to greet you with a new song.

Dushm. Be silent, that I may listen.

Cham. [*Aside.*] The king's mind seems intent on some other business. I must wait his leisure.
[*Retiring on one side.*]

SONG. [*Behind the scenes.*]

" Sweet bee, who, desirous of extracting fresh
" honey, wast wont to kiss the soft border of the
" new-blown Amra flower, how canst thou now
" be satisfied with the water lily, and forget the
" first object of thy love?"

Dushm. The ditty breathes a tender passion.

Mádh. Does the king know its meaning? It is too deep for me.

Dushm. [*Smiling.*] I was once in love with Hansamatí, and am now reprov'd for continuing so long absent from her.—Friend Mádhavya, inform the queen in my name that I feel the reproof.

Mádh. As the king commands; but—[*Rising slowly.*—My friend, you are going to seize a sharp lance with another man's hand. I cannot relish your commission to an enraged woman.—A hermit cannot be happy till he has taken leave of all passions whatever.

Dushm. Go, my kind friend: the urbanity of thy discourse will appease her.

Mádh. What an errand! [He goes out.

Dushm. [*Aside.*] Ah! what makes me so melancholy on hearing a mere song on absence, when I am not in fact separated from any real object of my affection?—Perhaps the sadness of men, otherwise happy, on seeing beautiful forms and listening to sweet melody, arises from some faint remembrance of past joys and the traces of connections in a former state of existence.

[*He sits pensive and sorrowful.*]

Cham. [*Advancing humbly.*] May our sovereign be victorious!—Two religious men, with some women, are come from their abode in a forest near the Snowy Mountains, and bring a message from Canna.—The king will command.

Dushm. [*Surprised.*] What! are pious hermits arrived in the company of women?

Cham. It is even so.

Dushm. Order the priest Sômaratâ, in my name, to shew them due reverence in the form appointed by the Vêda; and bid him attend me. I shall wait for my holy guests in a place fit for their reception.

Cham. I obey. [*He goes out.*]

Dushm. Wardour, point the way to the hearth of the consecrated fire.

Ward. This, O king, this is the way.—[*He walks before.*—Here is the entrance of the hallowed enclosure; and there stands the venerable cow to be milked for the sacrifice, looking bright

from the recent sprinkling of mystick water.—
Let the king ascend.

[*Dushmanta is raised to the place of sacrifice
on the shoulders of his Wardours.*]

Dushm. What message can the pious Canna have sent me?—Has the devotion of his pupils been impeded by evil spirits—or by what other calamity?—Or has any harm, alas! befallen the poor herds who graze in the hallowed forest?—Or have the sins of the king tainted the flowers and fruits of the creepers planted by female hermits?—My mind is entangled in a labyrinth of confused apprehensions.

Ward. What our sovereign imagines, cannot possibly have happened; since the hermitage has been rendered secure from evil by the mere sound of his bowstring. The pious men, whom the king's benevolence has made happy, are come, I presume, to do him homage.

Enter Sárngarava, Sáradwata and Gautamí, leading Sacontalá by the hand; and before them the old Chamberlain and the Priest.

Cham. This way, respectable strangers; come this way.

Sárn. My friend Sáradwata, there sits the king of men, who has felicity at command, yet shows equal respect to all: here no subject, even of the lowest class, is received with contempt.

Nevertheless, my soul having ever been free from attachment to worldly things, I consider this hearth, although a crowd now surround it, as the station merely of consecrated fire.

Sárad. I was not less confounded than yourself on entering the populous city; but now I look on it, as a man just bathed in pure water, on a man smeared with oil and dust, as the pure on the impure, as the waking on the sleeping, as the free man on the captive, as the independent on the slave.

Priest. Thence it is, that men, like you two, are so elevated above other mortals.

Sac. [*Perceiving a bad omen.*] Venerable mother, I feel my right eye throb! What means this involuntary motion?

Gaut. Heaven avert the omen, my sweet child! May every delight attend thee! .

[*They all advance.*

Priest. [*Shewing the king to them.*] There, holy men, is the protector of the people; who has taken his seat, and expects you.

Sárn. This is what we wished; yet we have no private interest in the business. It is ever thus: trees are bent by the abundance of their fruit; clouds are brought low, when they teem with salubrious rain; and the real benefactors of mankind are not elated by riches.

Ward. O king, the holy guests appear before

you with placid looks, indicating their affection.

Dushm. [*Gazing at Sacontalá.*] Ah! what damsel is that, whose mantle conceals the far greater part of her beautiful form?—She looks, among the hermits, like a fresh green bud among faded and yellow leaves.

Ward. This at least, O king, is apparent; that she has a form which deserves to be seen more distinctly.

Dushm. Let her still be covered: she seems pregnant; and the wife of another must not be seen even by me.

Sac. [*Afide, with her hand to her bosom.*] O my heart, why dost thou palpitate?—Remember the beginning of thy lord's affection, and be tranquil.

Priest. May the king prosper! The respectable guests have been honoured as the law ordains; and they have now a message to deliver from their spiritual guide: let the king deign to hear it.

Dushm. [*With reverence.*] I am attentive.

Both Misras. [*Extending their hands.*] Victory attend thy banners!

Dushm. I respectfully greet you both.

Both. Blessings on our sovereign!

Dushm. Has your devotion been uninterrupted?

Sárn. How should our rites be disturbed, when thou art the preserver of all creatures? How, when the bright sun blazes, should darkness cover the world?

Dushm. [*Aside.*] The name of royalty produces, I suppose, all worldly advantages!— [*Aloud.*]—Does the holy Canna then prosper?

Sárn. O king, they who gather the fruits of devotion may command prosperity. He first inquires affectionately whether thy arms are successful, and then addresses thee in these words:—

Dushm. What are his orders?

Sárn. “The contract of marriage, reciprocally made between thee and this girl, my daughter, I confirm with tender regard; since thou art celebrated as the most honourable of men, and my Sacontalá is Virtue herself in a human form, no blasphemous complaint will henceforth be made against Brahmá for suffering discordant matches: he has now united a bride and bridegroom with qualities equally transcendent.—Since, therefore, she is pregnant by thee, receive her in thy palace, that she may perform, in conjunction with thee, the duties prescribed by religion.”

Gaut. Great king, thou hast a mild aspect; and I wish to address thee in few words.

Dushm. [*Smiling.*] Speak, venerable matron.

Gaut. She waited not the return of her spiritual father; nor were thy kindred consulted by thee. You two only were present, when your nuptials were solemnized: now, therefore, converse freely together in the absence of all others.

Sac. [*Aside.*] What will my lord say?

Dushm. [*Aside, perplexed.*] How strange an adventure!

Sac. [*Aside.*] Ah me! how disdainfully he seems to receive the message!

Sárn. [*Aside.*] What means that phrase which I overheard, "How strange an adventure?"—
[*Aloud.*—] Monarch, thou knowest the hearts of men. Let a wife behave ever so discreetly, the world will think ill of her, if she live only with her paternal kinsmen; and a lawful wife now requests, as her kindred also humbly entreat, that whether she be loved or not, she may pass her days in the mansion of her husband.

Dushm. What sayest thou?—Am I the lady's husband?

Sac. [*Aside with anguish.*] O my heart, thy fears have proved just.

Sárn. Does it become a magnificent prince to depart from the rules of religion and honour, merely because he repents of his engagements?

Dushm. With what hope of success could this groundless fable have been invented?

Sárn. [*Angrily.*] The minds of those whom power intoxicates are perpetually changing.

Dushm. I am reprov'd with too great severity.

Gaut. [*To Sacontalá.*] Be not ashamed, my sweet child: let me take off thy mantle, that the king may recollect thee. [*She unveils her.*]

Dushm. [*Aside, looking at Sacontalá.*] While I am doubtful whether this unblemished beauty which is displayed before me has not been possessed by another, I resemble a bee fluttering at the close of night over a blossom filled with dew; and in this state of mind, I neither can enjoy nor forsake her.

Ward. [*Aside to Dushmanta.*] The king best knows his rights and his duties: but who would hesitate when a woman, bright as a gem, brings lustre to the apartments of his palace?

Sárn. What, O king, does thy strange silence import?

Dushm. Holy man, I have been meditating again and again, but have no recollection of my marriage with this lady. How then can I lay aside all consideration of my military tribe, and admit into my palace a young woman who is pregnant by another husband?

Sac. [*Aside.*] Ah! wo is me.—Can there be

a doubt even of our nuptials?—The tree of my hope, which had risen so luxuriantly, is at once broken down.

Sárn. Beware, lest the godlike sage, who would have bestowed on thee, as a free gift, his inestimable treasure, which thou hadst taken, like a base robber, should now cease to think of thee, who art lawfully married to his daughter, and should confine all his thoughts to her whom thy perfidy disgraces.

Sárad. Rest a while, my Sárngarava; and thou, Sacontalá, take thy turn to speak; since thy lord has declared his forgetfulness.

Sac. [*Afide.*] If his affection has ceased, of what use will it be to recall his remembrance of me?—Yet, if my soul must endure torment, be it so: I will speak to him.——[*Aloud to Dushmanta.*]—O my husband!——[*Pausing.*]—Or (if the just application of that sacred word be still doubted by thee) O son of Puru, is it becoming, that, having been once enamoured of me in the consecrated forest, and having shown the excess of thy passion, thou shouldst this day deny me with bitter expressions?

Dushm. [*Covering his ears.*] Be the crime removed from my soul!—Thou hast been instructed for some base purpose to vilify me, and make me fall from the dignity which I have hitherto supported; as a river which has burst its banks

and altered its placid current, overthrows the trees that had risen aloft on them.

Sac. If thou sayst this merely from want of recollection, I will restore thy memory by producing thy own ring, with thy name engraved on it!

Dushm. A capital invention!

Sac. [*Looking at her finger.*] Ah me! I have no ring. [*She fixes her eyes with anguish on Gautamí.*]

Gaut. The fatal ring must have dropped, my child, from thy hand, when thou tookest up water to pour on thy head in the pool of Sachítir-t'ha, near the station of Sacrávatára.

Dushm. [*Smiling.*] So skilful are women in finding ready excuses!

Sac. The power of Bramá must prevail: I will yet mention one circumstance.

Dushm. I must submit to hear the tale.

Sac. One day, in a grove of Vétasas, thou tookest water in thy hand from its natural vase of lotos leaves——

Dushm. What followed?

Sac. At that instant a little fawn, which I had reared as my own child, approached thee; and thou saidst with benevolence: “Drink thou first, gentle fawn.” He would not drink from the hand of a stranger, but received water eagerly from mine; when thou saidst, with increas-

ing affection: "Thus every creature loves its
 " companions; you are both foresters alike, and
 " both alike amiable."

Dushm. By such interested and honied falsehoods are the souls of voluptuaries ensnared!

Gaut. Forbear, illustrious prince, to speak harshly. She was bred in a sacred grove where she learned no guile.

Dushm. Pious matron, the dexterity of females, even when they are untaught, appears in those of a species different from our own.—What would it be if they were duly instructed!—The female Cócilas, before they fly towards the firmament, leave their eggs to be hatched, and their young fed, by birds who have no relation to them.

Sac. [*With anger.*] Oh! void of honour, thou measurest all the world by thy own bad heart. What prince ever resembled, or ever will resemble, thee, who wearest the garb of religion and virtue, but in truth art a base deceiver; like a deep well whose mouth is covered with smiling plants!

Dushm. [*Aside.*] The rusticity of her education makes her speak thus angrily and inconsistently with female decorum.—She looks indignant; her eye glows; and her speech, formed of harsh terms, falters as she utters them. Her lip, ruddy as the Bimba fruit, quivers as if it

were nipped with frost; and her eyebrows, naturally smooth and equal, are at once irregularly contracted.—Thus having failed in circumventing me by the apparent lustre of simplicity, she has recourse to wrath, and snaps in two the bow of Cáma, which, if she had not belonged to another, might have wounded me.—[*Aloud.*]—The heart of Dushmanta, young woman, is known to all; and thine is betrayed by thy present demeanor.

Sac. [*Ironically.*] You kings are in all cases to be credited implicitly: you perfectly know the respect which is due to virtue and to mankind; while females, however modest, however virtuous, know nothing, and speak nothing truly.—In a happy hour I came hither to seek the object of my affection: in a happy moment I received the hand of a prince descended from Puru; a prince who had won my confidence by the honey of his words, whilst his heart concealed the weapon that was to pierce mine.

[*She hides her face and weeps.*]

Sárn. This insufferable mutability of the king's temper kindles my wrath. Henceforth let all be circumspect before they form secret connections: a friendship hastily contracted, when both hearts are not perfectly known, must ere long become enmity.

Dushm. Wouldst thou force me then to com-

mit an enormous crime, relying solely on her smooth speeches?

Sárn. [*Scornfully.*] Thou hast heard an answer.—The words of an incomparable girl, who never learned what iniquity was, are here to receive no credit; while they, whose learning consists in accusing others, and inquiring into crimes, are the only persons who speak truth!

Dushm. O man of unimpeached veracity, I certainly am what thou describest; but what would be gained by accusing thy female associate?

Sárn. Eternal misery.

Dushm. No; misery will never be the portion of Puru's descendants.

Sárn. What avails our altercation?—O king, we have obeyed the commands of our preceptor, and now return. Sacontalá is by law thy wife, whether thou desert or acknowledge her; and the dominion of a husband is absolute.—Go before us, Gautamí.

[*The two Mistras and Gautamí returning.*

Sac. I have been deceived by this perfidious man; but will you, my friends, will you also forsake me? [*Following them.*

Gaut. [*Looking back.*] My son, Sacontalá follows us with affectionate supplications. What can she do here with a faithless husband; she who is all tenderness?

Sárn. [*Angrily to Sacontalá.*] O wife, who

feest the faults of thy lord, dost thou desire independence? [Sacontalá stops, and trembles.

Sárad. Let the queen hear. If thou beest what the king proclaims thee, what right hast thou to complain? But if thou knowest the purity of thy own soul, it will become thee to wait as a handmaid in the mansion of thy lord. Stay, then, where thou art: we must return to Canna.

Dushm. Deceive her not, holy men, with vain expectations. The moon opens the night flower; and the sun makes the water lily blossom: each is confined to its own object: and thus a virtuous man abstains from any connection with the wife of another.

Sárn. Yet thou, O king, who fearest to offend religion and virtue, art not afraid to desert thy wedded wife; pretending that the variety of thy publick affairs has made thee forget thy private contract.

Dushm. [To his Priest.] I really have no remembrance of any such engagement; and I ask thee, my spiritual counsellor, whether of the two offences be the greater, to forsake my own wife, or to have an intercourse with the wife of another?

Priest. [After some deliberation.] We may adopt an expedient between both.

Dushm. Let my venerable guide command.

Priest. The young woman may dwell till her delivery in my house.

Dushm. For what purpose?

Priest. Wife astrologers have assured the king, that he will be the father of an illustrious prince, whose dominion will be bounded by the western and eastern seas: now, if the holy man's daughter shall bring forth a son whose hands and feet bear the marks of extensive sovereignty, I will do homage to her as my queen, and conduct her to the royal apartments; if not, she shall return in due time to her father.

Dushm. Be it as you judge proper.

Priest. [*To Sacontalá.*] This way, my daughter, follow me.

Sac. O earth! mild goddess, give me a place within thy bosom!

She goes out weeping with the Priest; while the two Mistras go out by a different way with Gautamí—Dushmanta stands meditating on the beauty of Sacontalá; but the imprecation still clouds his memory.]

Behind the scenes. Oh! miraculous event!

Dushm. [*Listening.*] What can have happened!

The Priest re-enters.

Priest. Hear, O king, the stupendous event. When Canna's pupils had departed, Sacontalá, bewailing her adverse fortune, extended her arms and wept; when——

Dushm. What then ?

Priest. A body of light, in a female shape, descended near Apfaraftirt'ha, where the nymphs of heaven are worshiped ; and having caught her hastily in her bosom, disappeared.

[*All express astonishment.*

Dushm. I suspected from the beginning some work of sorcery.—The business is over ; and it is needless to reason more on it.—Let thy mind, Sómaráta, be at rest.

Priest. May the king be victorious.

[*He goes out.*

Dushm. Chamberlain, I have been greatly harassed ; and thou, Warder, go before me to a place of repose.

Ward. This way ; let the king come this way.

Dushm. [*Advancing, aside.*] I cannot with all my efforts recollect my nuptials with the daughter of the hermit ; yet so agitated is my heart, that it almost induces me to believe her story.

[*All go out.*

ACT VI.

SCENE—A STREET.

Enter a Superintendent of Police with two Officers, leading a man with his hands bound.

First Officer. Striking the prisoner.

TAKE that, Cumbhílaca, if Cumbhílaca be thy name; and tell us now where thou gottest this ring, bright with a large gem, on which the king's name is engraved.

Cumbh. [Trembling.] Spare me, I entreat your honours to spare me: I am not guilty of so great a crime as you suspect.

First Off. O distinguished Bráhmén, didst thou then receive it from the king as a reward of some important service?

Cumbh. Only hear me: I am a poor fisherman dwelling at Sacrávatára——

Second Off. Did we ask, thou thief, about thy tribe or thy dwelling-place?

Sup. O Súchaca, let the fellow tell his own story.—Now conceal nothing, firrah.

First Off. Dost thou hear? Do as our master commands.

Cumbh. I am a man who support my family by catching fish in nets, or with hooks, and by various other contrivances.

Sup. [*Laughing.*] A virtuous way of gaining a livelihood!

Cumbh. Blame me not, master. The occupation of our forefathers, how low soever, must not be forsaken; and a man who kills animals for sale may have a tender heart though his act be cruel.

Sup. Go on, go on.

Cumbh. One day having caught a large Róhita fish, I cut it open, and saw this bright ring in its stomach; but when I offered to sell it, I was apprehended by your honours. So far only am I guilty of taking the ring. Will you now continue beating and bruising me to death?

Sup. [*Smelling the ring.*] It is certain, Jáluca, that this gem has been in the body of a fish. The case requires consideration; and I will mention it to some of the king's household.

Both Off. Come on, cutpurse.

[*They advance.*]

Sup. Stand here, Súchaca, at the great gate of the city, and wait for me, while I speak to some of the officers in the palace.

Both Off. Go, Rájayucta. May the king favour thee.

[*The Superintendent goes out.*]

Second Off. Our master will stay, I fear, a long while.

First Off. Yes; access to kings can only be had at their leisure.

Second Off. The tips of my fingers itch, my friend Jáluca, to kill this cutpurse.

Cumbh. You would put to death an innocent man.

First Off. [*Looking.*] Here comes our master.—The king has decided quickly. Now, Cumbhílaca, you will either see your companions again, or be the food of shakàls and vultures.

The Superintendent re-enters.

Sup. Let the fisherman immediately——

Cumbh. [*In an agony.*] Oh! I am a dead man.

Sup. ——be discharged.—Hola! set him at liberty. The king says he knows his innocence; and his story is true.

Second Off. As our master commands.—The fellow is brought back from the mansion of Yama, to which he was hastening.

[*Unbinding the fisherman.*]

Cumbh. [*Bowing.*] My lord, I owe my life to your kindness.

Sup. Rise, friend; and hear with delight that the king gives thee a sum of money equal to the

full value of the ring: it is a fortune to a man in thy station. [*Giving him the money.*

Cumbh. [*With rapture.*] I am transported with joy.

First Off. This vagabond seems to be taken down from the stake, and set on the back of a state elephant.

Second Off. The king, I suppose, has a great affection for his gem.

Sup. Not for its intrinsic value; but I guessed the cause of his ecstasy when he saw it.

Both Off. What could occasion it?

Sup. I suspect that it called to his memory some person who has a place in his heart; for though his mind be naturally firm, yet, from the moment when he beheld the ring, he was for some minutes excessively agitated.

Second Off. Our master has given the king extreme pleasure.

First Off. Yes; and by the means of this fish-catcher. [*Looking fiercely at him.*

Cumbh. Be not angry—Half the money shall be divided between you to purchase wine.

First Off. Oh! now thou art our beloved friend.—Good wine is the first object of our affection.—Let us go together to the vintners.

[*They all go out.*

SCENE—*The GARDEN of the PALACE.*

The Nymph Misracésí appears in the air.

Misr. My first task was duly performed when I went to bathe in the Nymphs' pool; and I now must see with my own eyes how the virtuous king is afflicted.—Sacontalá is dear to this heart, because she is the daughter of my beloved Ménacà, from whom I received both commissions.—*[She looks round.]*—Ah! on a day full of delights the monarch's family seem oppressed with some new sorrow.—By exerting my supernatural power I could know what has passed; but respect must be shown to the desire of Ménacà. I will retire, therefore, among those plants, and observe what is done without being visible. *[She descends, and takes her station.*

Enter two Damsels, attendants on the God of Love.

First Dams. *[Looking at an Amra flower.]*—The blossoms of yon Amra, waving on the green stalk, are fresh and light as the breath of this vernal month. I must present the goddess Retí with a basket of them.

Second Dams. Why, my Parabhríticá, dost thou mean to present it alone?

First Dams. O my friend Madhucaricá, when

a female Cócilà, which my name implies, sees a blooming Amra, she becomes entranced, and loses her recollection.

Second Damsf. [*With transport.*] What! is the season of sweets actually returned?

First Damsf. Yes; the season in which we must sing of nothing but wine and love.

Second Damsf. Support me, then, while I climb up this tree, and strip it of its fragrant gems, which we will carry as an offering to Cáma.

First Damsf. If I assist, I must have a moiety of the reward which the god will bestow.

Second Damsf. To be sure, and without any previous bargain. We are only one soul, you know, though Brahmà has given it two bodies. —[*She climbs up, and gathers the flowers.*]— Ah! the buds are hardly opened.—Here is one a little expanded, which diffuses a charming odour—[*Taking a handful of buds.*]—This flower is sacred to the god who bears a fish on his banner.—O sweet blossom, which I now consecrate, thou well deserveest to point the sixth arrow of Cámadéva, who now takes his bow to pierce myriads of youthful hearts.

[*She throws down a blossom.*]

The old Chamberlain enters.

Gham. [*Angrily.*] Desist from breaking off those half-opened buds: there will be no jubilee this year; our king has forbidden it.

Both Dams. Oh! pardon us. We really knew not the prohibition.

Cham. You knew it not!—Even the trees which the spring was decking, and the birds who perch on them, sympathize with our monarch. Thence it is, that yon buds, which have long appeared, shed not yet their prolifick dust; and the flower of the Curuvaca, though perfectly formed, remains veiled in a closed chalice; while the voice of the Cócilà, though the cold dews fall no more, is fixed within his throat; and even Smara, the god of desire, replaces the shaft half-drawn from his quiver.

Misr. [*Aside.*] The king, no doubt, is constant and tender-hearted.

First Dams. A few days ago, Mitravasu, the governor of our province, dispatched us to kiss the feet of the king, and we come to decorate his groves and gardens with various emblems: thence it is, that we heard nothing of his interdict.

Cham. Beware then of reiterating your offence.

Second Dams. To obey our lord will certainly be our delight; but if we are permitted to hear the story, tell us, we pray, what has induced our sovereign to forbid the usual festivity.

Misr. [*Aside.*] Kings are generally fond of gay entertainments; and there must be some weighty reason for the prohibition.

Cham. [*Aside.*] The affair is publick: why

should I not satisfy them?——[*Aloud.*]—Has not the calamitous desertion of Sacontalá reached your ears?

First Dams. We heard her tale from the governor, as far as the sight of the fatal ring.

Cham. Then I have little to add.——When the king's memory was restored, by the sight of his gem, he instantly exclaimed: "Yes, the incomparable Sacontalá is my lawful wife; and" "when I rejected her, I had lost my reason."—He showed strong marks of extreme affliction and penitence; and from that moment he has abhorred the pleasures of life. No longer does he exert his respectable talents from day to day for the good of his people: he prolongs his nights without closing his eyes, perpetually rolling on the edge of his couch; and when he rises, he pronounces not one sentence aptly; mistaking the names of the women in his apartments, and through distraction, calling each of them Sacontalá: then he sits abashed, with his head long bent on his knees.

Misr. [*Aside.*] This is pleasing to me, very pleasing.

Cham. By reason of the deep sorrow which now prevails in his heart, the vernal jubilee has been interdicted.

Both Dams. The prohibition is highly proper.

Behind the scenes. Make way! The king is passing.

Cham. [*Listening.*] Here comes the monarch: depart therefore, damsels, to your own province.

[*The two Damsels go out.*]

Dushmanta enters in penitential weeds, preceded by a Warder, and attended by Mádhavya.

Cham. [*Looking at the king.*] Ah! how majestic are noble forms in every habiliment!—Our prince, even in the garb of affliction, is a venerable object.—Though he has abandoned pleasure, ornaments, and business; though he is become so thin, that his golden bracelet falls loosened even down to his wrist; though his lips are parched with the heat of his sighs, and his eyes are fixed open by long sorrow and want of sleep, yet am I dazzled by the blaze of virtue which beams in his countenance like a diamond exquisitely polished.

Misr. [*Aside, gazing on Dushmanta.*] With good reason is my beloved Sacontalá, though disgraced and rejected, heavily oppressed with grief through the absence of this youth.

Dushm. [*Advancing slowly in deep meditation.*] When my darling with an antelope's eyes would have reminded me of our love, I was assuredly slumbering; but excess of misery has awakened me.

Misr. [*Aside.*] The charming girl will at last be happy.

Mádb. [*Aside.*] This monarch of ours is caught again in the gale of affection; and I hardly know a remedy for his illness.

Cham. [*Approaching Dushmanta.*] May the king be victorious!—Let him survey yon fine woodland, these cool walks, and this blooming garden; where he may repose with pleasure on banks of delight.

Dushm. [*Not attending to him.*] Warder, inform the chief minister in my name, that having resolved on a long absence from the city, I do not mean to sit for some time in the tribunal; but let him write and dispatch to me all the cases that may arise among my subjects.

Ward. As the king commands.

[*He goes out.*]

Dushm. [*To the Chamberlain.*] And thou, Párvatáyana, neglect not thy stated business.

Cham. By no means. [*He goes out.*]

Mádb. You have not left a fly in the garden.—Amuse yourself now in this retreat, which seems pleased with the departure of the dewy season.

Dushm. O Mádhavya, when persons accused of great offences prove wholly innocent, see how their accusers are punished!—A phrensy obstructed my remembrance of any former love

for the daughter of the sage ; and now the heart-born god, who delights in giving pain, has fixed in his bow-string a new shaft pointed with the blossom of an Amra.—The fatal ring having restored my memory, see me deplore with tears of repentance the loss of my best beloved, whom I rejected without cause ; see me overwhelmed with sorrow, even while the return of spring fills the hearts of all others with pleasure.

Mádh. Be still, my friend, whilst I break Love's arrows with my staff.

[*He strikes off some flowers from an Amra tree.*]

Dushm. [*Meditating.*] Yes, I acknowledge the supreme power of Brahmà.—[*To Mádhavya.*] Where now, my friend, shall I sit and recreate my sight with the slender shrubs which bear a faint resemblance to the shape of Sacontalá ?

Mádh. You will soon see the damsel skilled in painting, whom you informed that you would spend the forenoon in yon bower of Mádhavi creepers ; and she will bring the queen's picture which you commanded her to draw.

Dushm. My soul will be delighted even by her picture.—Show the way to the bower.

Mádh. This way, my friend.—[*They both advance, Misracésì following them.*] The arbour of twining Mádhavis, embellished with fragments of stone like bright gems, appears by its

pleasantness, though without a voice, to bid thee welcome.—Let us enter it, and be seated.

[They both sit down in the bower.]

Misr. [*Aside.*] From behind these branchy shrubs I shall behold the picture of my Sacontalá.—I will afterwards hasten to report the sincere affection of her husband.

[She conceals herself.]

Dushm. [*Sighing.*] O my approved friend, the whole adventure of the hermitage is now fresh in my memory.—I informed you how deeply I was affected by the first sight of the damsel; but when she was rejected by me you were not present.—Her name was often repeated by me (how, indeed, should it not?) in our conversation.—What! hast thou forgotten, as I had, the whole story?

Misr. [*Aside.*] The sovereigns of the world must not, I find, be left an instant without the objects of their love.

Madh. Oh, no; I have not forgotten it; but at the end of our discourse you assured me that your love tale was invented solely for your diversion; and this, in the simplicity of my heart, I believed.—Some great event seems in all this affair to be predestined in heaven.

Misr. [*Aside.*] Nothing is more true.

Dushm. [*Having meditated.*] O! my friend, suggest some relief for my torment.

Mádh. What new pain torments you? Virtuous men should never be thus afflicted: the most violent wind shakes not mountains.

Dushm. When I reflect on the situation of your friend Sacontalá, who must now be greatly affected by my desertion of her, I am without comfort.—She made an attempt to follow the Bráhmens and the matron: Stay, said the sage's pupil, who was revered as the sage himself: Stay, said he, with a loud voice. Then once more she fixed on me, who had betrayed her, that celestial face, then bedewed with gushing tears; and the bare idea of her pain burns me like an envenomed javelin.

Misr. [*Aside.*] How he afflicts himself! I really sympathize with him.

Mádh. Surely some inhabitant of the heavens must have wafted her to his mansion.

Dushm. No; what male divinity would have taken the pains to carry off a wife so firmly attached to her lord? Ménacà, the nymph of Swerga, gave her birth; and some of her attendant nymphs have, I imagine, concealed her at the desire of her mother.

Misr. [*Aside.*] To reject Sacontalá was, no doubt, the effect of a delirium, not the act of a waking man.

Mádh. If it be thus, you will soon meet her again.

Dushm. Alas! why do you think so?

Mádb. Because no father and mother can long endure to see their daughter deprived of her husband.

Duskm. Was it sleep that impaired my memory? Was it delusion? Was it an error of my judgement? Or was it the destined reward of my bad actions? Whatever it was, I am sensible that, until Sacontalá return to these arms, I shall be plunged in the abyss of affliction.

Mádb. Do not despair: the fatal ring is itself an example that the lost may be found.—Events which were foredoomed by Heaven must not be lamented.

Duskm. [*Looking at his ring.*] The fate of this ring, now fallen from a station which it will not easily regain, I may at least deplore.—O gem, thou art removed from the soft finger, beautiful with ruddy tips, on which a place had been assigned thee; and, minute as thou art, thy bad qualities appear from the similarity of thy punishment to mine.

Misr. [*Aside.*] Had it found a way to any other hand its lot would have been truly deplorable.—O Ménacà, how wouldst thou be delighted with the conversation which gratifies my ears!

Mádb. Let me know, I pray, by what means the ring obtained a place on the finger of Sacontalá.

Dushm. You shall know, my friend.—When I was coming from the holy forest to my capital, my beloved, with tears in her eyes, thus addressed me: “How long will the son of my “lord keep me in his remembrance?”

Mádh. Well; what then?

Dushm. Then, fixing this ring on her lovely finger, I thus answered: “Repeat each day one “of the three syllables engraved on this gem; “and before thou hast spelled the word Dush- “manta, one of my noblest officers shall attend “thee, and conduct my darling to her palace.” —Yet I forgot, I deserted her in my phrensy.

Misr. [*Aside.*] A charming interval of three days was fixed between their separation and their meeting, which the will of Brahmà rendered unhappy.

Mádh. But how came the ring to enter, like a hook, into the mouth of a carp?

Dushm. When my beloved was lifting water to her head in the pool of Sachitírt’ha, the ring must have dropped unseen.

Mádh. It is very probable.

Misr. [*Aside.*] Oh! it was thence that the king, who fears nothing but injustice, doubted the reality of his marriage; but how, I wonder, could his memory be connected with a ring?

Dushm. I am really angry with this gem.

Mádh. [*Laughing.*] So am I with this staff.

Dushm. Why so, Mádhavya?

Mádh. Because it presumes to be so straight when I am so crooked.—Impertinent stick!

Dushm. [*Not attending to him.*] How, O ring, couldst thou leave that hand adorned with soft long fingers, and fall into a pool decked only with water lilies?—The answer is obvious: thou art irrational.—But how could I, who was born with a reasonable soul, desert my only beloved?

Misr. [*Aside.*] He anticipates my remark.

Mádh. [*Aside.*] So; I must wait here during his meditations, and perish with hunger.

Dushm. O my darling, whom I treated with disrespect, and forsook without reason, when will this traitor, whose heart is deeply stung with repentant sorrow, be once more blessed with a sight of thee?

A Damsel enters with a picture.

Damsf. Great king, the picture is finished.

[*Holding it before him.*]

Dushm. [*Gazing on it.*] Yes; that is her face; those are her beautiful eyes; those her lips embellished with smiles, and surpassing the red lustre of the Carcandhu fruit: her mouth seems, though painted, to speak, and her countenance darts beams of affection blended with a variety of melting tints.

Mádh. Truly, my friend, it is a picture sweet

as love itself: my eye glides up and down to feast on every particle of it; and it gives me as much delight as if I were actually conversing with the living Sacontalá.

Misr. [*Aside.*] An exquisite piece of painting!—My beloved friend seems to stand before my eyes.

Dushm. Yet the picture is infinitely below the original; and my warm fancy, by supplying its imperfections, represents, in some degree, the loveliness of my darling.

Misr. [*Aside.*] His ideas are suitable to his excessive love and severe penitence.

Dushm. [*Sighing.*] Alas! I rejected her when she lately approached me, and now I do homage to her picture; like a traveller who negligently passes by a clear and full rivulet, and soon ardently thirsts for a false appearance of water on the sandy desert.

Mádh. There are so many female figures on this canvas, that I cannot well distinguish the lady Sacontalá.

Misr. [*Aside.*] The old man is ignorant of her transcendent beauty; her eyes, which fascinated the soul of his prince, never sparkled, I suppose, on Mádhavya.

Dushm. Which of the figures do you conceive intended for the queen?

Mádh. [*Examining the picture.*] It is she, I

imagine, who looks a little fatigued ; with the string of her vest rather loose ; the slender stalks of her arms falling languidly ; a few bright drops on her face, and some flowers dropping from her untied locks. That must be the queen ; and the rest, I suppose, are her damsels.

Dushm. You judge well ; but my affection requires something more in the piece. Besides, through some defect in the colouring, a tear seems trickling down her cheek, which ill suits the state in which I desired to see her painted. —[*To the Damsel.*]—The picture, O Chaturicà, is unfinished.—Go back to the painting room and bring the implements of thy art.

Damsf. Kind Mádhavya, hold the picture while I obey the king.

Dushm. No ; I will hold it.

[*He takes the picture ; and the Damsel goes out.*]

Mádh. What else is to be painted ?

Misr. [*Aside.*] He desires, I presume, to add all those circumstances which became the situation of his beloved in the hermitage.

Dushm. In this landscape, my friend, I wish to see represented the river Málini, with some amorous Flamingos on its green margin ; farther back must appear some hills near the mountain Himálaya, surrounded with herds of Chamaras ; and in the foreground, a dark spreading tree, with some mantles of woven bark suspended on

its branches to be dried by the sunbeams ; while a pair of black antelopes couch in its shade, and the female gently rubs her beautiful forehead on the horn of the male.

Mádh. Add what you please ; but, in my judgement, the vacant places should be filled with old hermits, bent, like me, towards the ground.

Dushm. [*Not attending to him.*] Oh ! I had forgotten that my beloved herself must have some new ornaments.

Mádh. What, I pray ?

Misr. [*Aside.*] Such, no doubt, as become a damsel bred in a forest.

Dushm. The artist had omitted a Sirisha flower with its peduncle fixed behind her soft ear, and its filaments waving over part of her cheek ; and between her breasts must be placed a knot of delicate fibres, from the stalks of water lilies, like the rays of an autumnal moon.

Mádh. Why does the queen cover part of her face, as if she was afraid of something, with the tips of her fingers, that glow like the flowers of the Cuvalaya ?—Oh ! I now perceive an impudent bee, that thief of odours, who seems eager to sip honey from the lotos of her mouth.

Dushm. A bee ! drive off the importunate insect.

Mádh. The king has supreme power over all offenders.

Duskm. O male bee, who approachest the lovely inhabitants of a flowery grove, why dost thou expose thyself to the pain of being rejected?—See where thy female sits on a blossom, and, though thirsty, waits for thy return: without thee she will not taste its nectar.

Misr. [*Aside.*] A wild, but apt, address!

Mádb. The perfidy of male bees is proverbial.

Duskm. [*Angrily.*] Shouldst thou touch, O bee, the lip of my darling, ruddy as a fresh leaf on which no wind has yet breathed, a lip from which I drank sweetness in the banquet of love, thou shalt, by my order, be imprisoned in the center of a lotos.—Dost thou still disobey me?

Mádb. How can he fail to obey, since you denounce so severe a punishment? [*Aside, laughing.*—He is stark mad with love and affliction; whilst I, by keeping him company, shall be as mad as he without either.

Duskm. After my positive injunction, art thou still unmoved?

Misr. [*Aside.*] How does excess of passion alter even the wife!

Mádb. Why, my friend, it is only a painted bee.

Misr. [*Aside.*] Oh! I perceive his mistake: it shows the perfection of the art. But why does he continue musing?

Duskm. What ill-natured remark was that?—

Whilst I am enjoying the rapture of beholding her to whom my soul is attached, thou, cruel remembrancer, tellest me that it is only a picture. — [*Weeping.*]

Misr. [*Aside.*] Such are the woes of a separated lover! He is on all sides entangled in sorrow.

Dushm. Why do I thus indulge unremitted grief? That intercourse with my darling which dreams would give, is prevented by my continued inability to repose; and my tears will not suffer me to view her distinctly even in this picture.

Misr. [*Aside.*] His misery acquits him entirely of having deserted her in his perfect senses.

The Damsel re-enters.

Damsf. As I was advancing, O king, with my box of pencils and colours——

Dushm. [*Hastily.*] What happened?

Damsf. It was forcibly seized by the queen Vasumatì, whom her maid Pingalicà had apprised of my errand; and she said: “I will myself deliver the casket to the son of my lord.”

Mádh. How came you to be released?

Damsf. While the queen's maid was disengaging the skirt of her mantle, which had been caught by the branch of a thorny shrub, I stole away.

Dushm. Friend Mádhavya, my great attention to Vafumatì has made her arrogant; and she will soon be here: be it your care to conceal the picture.

Mádh. [*Aside.*] I wish you would conceal it yourself.—[*He takes the picture, and rises.*]——[*Aloud.*]—If, indeed, you will disentangle me from the net of your secret apartments, to which I am confined, and suffer me to dwell on the wall Méghach'handá which encircles them, I will hide the picture in a place where none shall see it but pigeons. [*He goes out.*]

Misr. [*Aside.*] How honourably he keeps his former engagements, though his heart be now fixed on another object!

A Warder enters with a leaf.

Ward. May the king prosper!

Dushm. Warder, hast thou lately seen the queen Vafumatì?

Ward. I met her, O king; but when she perceived the leaf in my hand, she retired.

Dushm. The queen distinguishes time: she would not impede my publick business.

Ward. The chief minister sends this message: "I have carefully stated a case which has arisen in the city, and accurately committed it to writing: let the king deign to consider it."

Dushm. Give me the leaf.—[*Receiving it,*

and reading..]——“ Be it presented at the foot
 “ of the king, that a merchant named Dhana-
 “ vridhi, who had extensive commerce at sea,
 “ was lost in a late shipwreck: he had no child
 “ born; and has left a fortune of many millions,
 “ which belong, if the king commands, to the
 “ royal treasury.”—— [*With sorrow.*]—Oh!
 how great a misfortune it is to die childless!
 Yet with his affluence he must have had many
 wives:—let an inquiry be made whether any
 one of them is pregnant.

Ward. I have heard that his wife, the daughter
 of an excellent man, named Sácétaca, has already
 performed the ceremonies usual on pregnancy.

Dushm. The child, though unborn, has a title
 to his father's property.——Go: bid the mini-
 ster make my judgement publick.

Ward. I obey. [*Going.*

Dushm. Stay a while.——

Ward. [*Returning.*] I am here.

Dushm. Whether he had or had not left off-
 spring, the estate should not have been forfeit-
 ed.——Let it be proclaimed, that whatever kinf-
 man any one of my subjects may lose, Dush-
 manta (excepting always the case of forfeiture
 for crimes) will supply, in tender affection, the
 place of that kinsman.

Ward. The proclamation shall be made.——

[*He goes out.*

[*Dushmanta continues meditating.*]

Re-enter Warder.

O king! the royal decree, which proves that your virtues are awake after a long slumber, was heard with bursts of applause.

Dushm. [*Sighing deeply.*] When an illustrious man dies, alas, without an heir, his estate goes to a stranger; and such will be the fate of all the wealth accumulated by the sons of Puru.

Ward. Heaven avert the calamity!

[*Goes out.*]

Dushm. Wo is me! I am stripped of all the felicity which I once enjoyed.

Misr. [*Aside.*] How his heart dwells on the idea of his beloved!

Dushm. My lawful wife, whom I basely deserted, remains fixed in my soul: she would have been the glory of my family, and might have produced a son brilliant as the richest fruit of the teeming earth.

Misr. [*Aside.*] She is not forsaken by all; and soon, I trust, will be thine.

Damf. [*Aside.*] What a change has the minister made in the king by sending him that mischievous leaf! Behold, he is deluged with tears.

Dushm. Ah me! the departed souls of my ancestors, who claim a share in the funeral cake,

which I have no son to offer, are apprehensive of losing their due honour, when Dushmanta shall be no more on earth:—who then, alas, will perform in our family those obsequies which the Vêda prescribes?—My forefathers must drink, instead of a pure libation, this flood of tears, the only offering which a man who dies childless can make them. [Weeping.]

Misr. [*Aside.*] Such a veil obscures the king's eyes, that he thinks it total darkness, though a lamp be now shining brightly.

Damf. Afflict not yourself immoderately: our lord is young; and when sons illustrious as himself shall be born of other queens, his ancestors will be redeemed from their offences committed here below.

Dushm. [*With agony.*] The race of Puru, which has hitherto been fruitful and unblemished, ends in me; as the river Sereswatî disappears in a region unworthy of her divine stream.

[*He faints.*]

Damf. Let the king resume confidence.—

[*She supports him.*]

Misr. [*Aside.*] Shall I restore him? No; he will speedily be roused—I heard the nymph Dévajananî consoling Sacontalâ in these words: “As the gods delight in their portion of sacrifices, thus wilt thou soon be delighted by the love of thy husband.” I go, therefore, to

raise her spirits, and please my friend Ménacà with an account of his virtues and his affection

[She rises aloft and disappears.]

Behind the scenes. A Bráhmén must not be slain: save the life of a Bráhmén.

Dusbm. *[Reviving and listening.]* Hah! was not that the plaintive voice of Mádhavya?

Dams. He has probably been caught with the picture in his hand by Pingalicà and the other maids.

Dusbm. Go, Chaturicà, and reprove the queen in my name for not restraining her servants.

Dams. As the king commands.

[She goes out.]

Again behind the scenes. I am a Bráhmén, and must not be put to death.

Dusbm. It is manifestly some Bráhmén in great danger.—Hóla! who is there?

The old Chamberlain enters.

Cham. What is the king's pleasure?

Dusbm. Inquire why the faint-hearted Mádhavya cries out so piteously.

Cham. I will know in an instant.

[He goes out, and returns trembling.]

Dusbm. Is there any alarm, Párvatáyana?

Cham. Alarm enough!

Dusbm. What causes thy tremour?—Thus do men tremble through age: fear shakes the old

man's body, as the breeze agitates the leaves of the Pippala.

Cham. Oh! deliver thy friend.

Dushm. Deliver him! from what?

Cham. From distress and danger.

Dushm. Speak more plainly.

Cham. The wall which looks to all quarters of the heavens, and is named, from the clouds which cover it, Méghach'handá——

Dushm. What of that?

Cham. From the summit of that wall, the pinnacle of which is hardly attainable even by the blue-necked pigeons, an evil being, invisible to human eyes, has violently carried away the friend of your childhood.

Dushm. [*Starting up hastily.*] What! are even my secret apartments infested by supernatural agents?—Royalty is ever subjected to molestation.—A king knows not even the mischiefs which his own negligence daily and hourly occasions:—how then should he know what path his people are treading; and how should he correct their manners when his own are uncorrected?

Behind the scenes. Oh, help! Oh, release me.

Dushm. [*Listening and advancing.*] Fear not, my friend, fear nothing——

Behind the scenes. Not fear, when a monster has caught me by the nape of my neck, and

means to snap my backbone as he would snap a sugar-cane !

Dushm. [*Darting his eyes round.*] Hola ! my bow——

A Warder enters with the king's bow and quiver.

Ward. Here are our great hero's arms.

[*Dushmanta takes his bow and an arrow.*

Behind the scenes. Here I stand ; and, thirsting for thy fresh blood, will slay thee struggling as a tyger slays a calf.——Where now is thy protector, Dushmanta, who grasps his bow to defend the oppressed ?

Dushm. [*Wrathfully.*] The demon names me with defiance.—Stay, thou basest of monsters.—Here am I, and thou shalt not long exist.—[*Raising his bow.*]—Show the way, Párvatáyana, to the stairs of the terrace.

Cham. This way, great king!——

[*All go out hastily.*

The SCENE changes to a broad TERRACE.

Enter Dushmanta.

Dushm. [*Looking round.*] Ah ! the place is deserted.

Behind the scenes. Save me, oh ! save me.—I see thee, my friend, but thou canst not discern

me, who, like a mouse in the claws of a cat, have no hope of life.

Dushm. But this arrow shall distinguish thee from thy foe, in spite of the magick which renders thee invisible.—Mádhavya, stand firm; and thou, blood-thirsty fiend, think not of destroying him whom I love and will protect.—See, I thus fix a shaft which shall pierce thee, who deservest death, and shall save a Bráhmen who deserves long life; as the celestial bird sips the milk, and leaves the water which has been mingled with it. [*He draws the bowstring.*]

Enter Mátali and Mádhavya.

Mát. The god Indra has destined evil demons to fall by thy shafts: against them let thy bow be drawn, and cast on thy friends eyes bright with affection.

Dushm. [*Astonished, giving back his arms.*]
Oh! Mátali, welcome; I greet the driver of Indra's car.

Mádh. What! this cutthroat was putting me to death, and thou greetest him with a kind welcome!

Mát. [*Smiling.*] O king, live long and conquer! Hear on what errand I am dispatched by the ruler of the firmament.

Dushm. I am humbly attentive.

Mát. There is a race of Dánavas, the children of Cálaniemi, whom it is found hard to subdue—

Dushm. This I have heard already from Náred.

Mát. The god with an hundred sacrifices, unable to quell that gigantick race, commissions thee, his approved friend, to assail them in the front of battle; as the sun with seven steeds despairs of overcoming the dark legions of night, and gives way to the moon, who easily scatters them. Mount, therefore, with me, the car of Indra, and, grasping thy bow, advance to assured victory.

Dushm. Such a mark of distinction from the prince of good genii honours me highly; but say why you treated so roughly my poor friend Mádhavya.

Mát. Perceiving that, for some reason or another, you were grievously afflicted, I was desirous to rouse your spirits by provoking you to wrath.—The fire blazes when wood is thrown on it; the serpent, when provoked, darts his head against the assailant; and a man capable of acquiring glory, exerts himself when his courage is excited.

Dushm. [*To Mádhavya.*—My friend, the command of Divespétir must instantly be obeyed: go, therefore, and carry the intelligence to

my chief minister; saying to him in my name:
“ Let thy wisdom secure my people from dan-
“ ger while this braced bow has a different em-
“ ployment.”

Mádh. I obey; but wish it could have been
employed without assistance from my terror.

[*He goes out.*

Mát. Ascend, great king.

[*Dushmanta ascends, and Máta drives
off the car.*

ACT VII.

*Dushmanta with Mátaí in the car of Indra,
supposed to be above the clouds.*

Dushmanta.

I AM sensible, O Mátaí, that, for having executed the commission which Indra gave me, I deserved not such a profusion of honours.

Mát. Neither of you is satisfied. You who have conferred so great a benefit on the god of thunder, consider it as a trifling act of devotion; whilst he reckons not all his kindness equal to the benefit conferred.

Dushm. There is no comparison between the service and the reward.—He surpassed my warmest expectation, when, before he dismissed me, he made me sit on half of his throne, thus exalting me before all the inhabitants of the Empyreum; and smiling to see his son Jayanta, who stood near him, ambitious of the same honour, perfumed my bosom with essence of heavenly sandal wood, throwing over my neck a garland of flowers blown in paradise.

Mát. O king, you deserve all imaginable re-

wards from the sovereign of good genii; whose empyreal feats have twice been disentangled from the thorns of Danu's race; formerly by the claws of the man-lion, and lately by thy unerring shafts.

Dusbm. My victory proceeded wholly from the auspices of the god; as on earth, when servants prosper in great enterprises, they owe their success to the magnificence of their lords. — Could Arun dispel the shades of night if the deity with a thousand beams had not placed him before the car of day?

Mát. That case, indeed, is parallel.—[*Driving slowly.*]—See, O king, the full exaltation of thy glory, which now rides on the back of heaven! The delighted genii have been collecting, among the trees of life, those crimson and azure dyes, with which the celestial damsels tinge their beautiful feet; and they now are writing thy actions in verses worthy of divine melody.

Dusbm. [*Modestly.*] In my transport, O Má-tali, after the rout of the giants, this wonderful place had escaped my notice.—In what path of the winds are we now journeying?

Mát. This is the way which leads along the triple river, heaven's brightest ornament, and causes yon luminaries to roll in a circle with diffused beams: it is the course of a gentle breeze which supports the floating forms of the gods;

and this path was the second step of Vishnu, when he confounded the proud Vali.

Dushm. My internal soul, which acts by exterior organs, is filled by the sight with a charming complacency.——[*Looking at the wheels.*]—We are now passing, I guess, through the region of clouds.

Mát. Whence do you form that conjecture?

Dushm. The car itself instructs me that we are moving over clouds pregnant with showers; for the circumference of its wheels disperses pellucid water; the horses of Indra sparkle with lightning; and I now see the warbling Chátacas descend from their nests on the summits of mountains.

Mát. It is even so; and in another moment you will be in the country which you govern.

Dushm. [*Looking down.*] Through the rapid, yet imperceptible, descent of the heavenly steeds, I now perceive the allotted station of men.——

Astonishing prospect! It is yet so distant from us, that the low lands appear confounded with the high mountain tops; the trees erect their branchy shoulders, but seem leafless; the rivers look like bright lines, but their waters vanish; and, at this instant, the globe of earth seems thrown upwards by some stupendous power.

Mát. [*Looking with reverence on the earth.*]

How delightful is the abode of mankind!—O king, you saw distinctly.

Dushm. Say, Mátali, what mountain is that which, like an evening cloud, pours exhilarating streams, and forms a golden zone between the western and eastern seas?

Mát. That, O king, is the mountain of Gandharvas, named Hémacúta: the universe contains not a more excellent place for the successful devotion of the pious. There Casyapa, father of the immortals, ruler of men, son of Maríchi, who sprang from the self-existent, resides with his consort Aditi, blessed in holy retirement.

Dushm. [*Devoutly.*] This occasion of attaining good fortune must not be neglected: may I approach the divine pair, and do them complete homage?

Mát. By all means.—It is an excellent idea! —We are now descended on earth.

Dushm. [*With wonder.*] These chariot wheels yield no sound; no dust arises from them; and the descent of the car gave me no shock.

Mát. Such is the difference, O king, between thy car and that of Indra!

Dushm. Where is the holy retreat of Maríchi?

Mát. [*Pointing.*] A little beyond that grove, where you see a pious Yógi, motionless as a pol-

lard, holding his thick bushy hair, and fixing his eyes on the solar orb.—Mark; his body is half covered with a white ant's edifice made of raised clay; the skin of a snake supplies the place of his sacerdotal thread, and part of it girds his loins; a number of knotty plants encircle and wound his neck; and surrounding birds' nests almost conceal his shoulders.

Dushm. I bow to a man of his austere devotion.

Mát. [*Checking the reins.*] Thus far, and enough.—We now enter the sanctuary of him who rules the world, and the groves which are watered by streams from celestial sources.

Dushm. This asylum is more delightful than paradise itself: I could fancy myself bathing in a pool of nectar.

Mát. [*Stopping the car.*] Let the king descend.

Dushm. [*Joyfully descending.*] How canst thou leave the car?

Mát. On such an occasion it will remain fixed: we may both leave it.—This way, victorious hero, this way.—Behold the retreat of the truly pious.

Dushm. I see with equal amazement both the pious and their awful retreat.—It becomes, indeed, pure spirits to feed on balmy air in a forest blooming with trees of life; to bathe in rills

dyed yellow with the golden dust of the lotos, and to fortify their virtue in the mysterious bath; to meditate in caves, the pebbles of which are unblemished gems; and to restrain their passions, even though nymphs of exquisite beauty frolick around them: in this grove alone is attained the summit of true piety, to which other hermits in vain aspire.

Mát. In exalted minds the desire of perfect excellence continually increases.—[*Turning aside.*]—Tell me, Vriddhasácalya, in what business is the divine son of Maríchi now engaged?—What sayest thou?—Is he conversing with the daughter of Dacśha, who practises all the virtues of a dutiful wife, and is consulting him on moral questions?—Then we must await his leisure.—[*To Duśhmanta.*] Rest, O king, under the shade of this Áśoca tree, whilst I announce thy arrival to the father of Indra.

Duśhm. As you judge right.—[*Mátali goes out.*—*Duśhmanta feels his right arm throb.*] Why, O my arm, dost thou flatter me with a vain omen?—My former happiness is lost, and misery only remains.

Behind the scenes. Be not so restless: in every situation thou showest thy bad temper.

Duśhm. [*Listening.*] Hah! this is no place, surely, for a malignant disposition.—Who can be thus rebuked?—[*Looking with surprise.*]—I

see a child, but with no childish countenance or strength, whom two female anchorites are endeavouring to keep in order; while he forcibly pulls towards him, in rough play, a lion's whelp with a torn mane, who seems just dragged from the half-sucked nipple of the lioness!

A little Boy and two female Attendants are discovered, as described by the king.

Boy. Open thy mouth, lion's whelp, that I may count thy teeth.

First Atten. Intractable child! Why dost thou torment the wild animals of this forest, whom we cherish as if they were our own offspring? —Thou seemest even to sport in anger.—Aptly have the hermits named thee Servademana, since thou tamest all creatures.

Dusbm. Ah! what means it that my heart inclines to this boy as if he were my own son? —[*Meditating.*]—Alas! I have no son; and the reflection makes me once more soft-hearted.

Second Atten. The lioness will tear thee to pieces if thou release not her whelp.

Boy. [*Smiling.*] Oh! I am greatly afraid of her to be sure!

[*He bites his lip, as in defiance of her.*

Dusbm. [*Aside, amazed.*] The child exhibits the rudiments of heroic valour, and looks like fire which blazes from the addition of dry fuel.

First Atten. My beloved child, set at liberty this young prince of wild beasts ; and I will give thee a prettier plaything.

Boy. Give it first.—Where is it ?

[*Stretching out his hand.*

Dushm. [*Aside, gazing on the child's palm.*] What ! the very palm of his hand bears the marks of empire ; and whilst he thus eagerly extends it, shows its lines of exquisite network, and glows like a lotos expanded at early dawn, when the ruddy splendour of its petals hides all other tints in obscurity.

Second Atten. Mere words, my Suvrità, will not pacify him.—Go, I pray, to my cottage, where thou wilt find a plaything made for the hermit's child, Sancara : it is a peacock of earthenware painted with rich colours.

First Atten. I will bring it speedily.

[*She goes out.*

Boy. In the mean time I will play with the young lion.

Second Atten. [*Looking at him with a smile.*] Let him go, I entreat thee.

Dushm. [*Aside.*] I feel the tenderest affection for this unmanageable child. [*Sighing.*]—How sweet must be the delight of virtuous fathers, when they foil their bosoms with dust by lifting up their playful children, who charm them with inarticulate prattle, and show the white blossoms

of their teeth, while they laugh innocently at every trifling occurrence!

Second Atten. [*Raising her finger.*] What! dost thou show no attention to me?—[*Looking round.*]—Are any of the hermits near?—[*Seeing Dushmanta.*]—Oh! let me request you, gentle stranger, to release the lion's whelp, who cannot disengage himself from the grasp of this robust child.

Dushm. I will endeavour.—[*Approaching the Boy and smiling.*]—O thou, who art the son of a pious anchorite, how canst thou dishonour thy father, whom thy virtues would make happy, by violating the rules of this consecrated forest? It becomes a black serpent only, to infect the boughs of a fragrant sandal tree.

[*The Boy releases the lion.*]

Second Atten. I thank you, courteous guest;—but he is not the son of an anchorite.

Dushm. His actions, indeed, which are conformable to his robustness, indicate a different birth: but my opinion arose from the sanctity of the place which he inhabits.—[*Taking the Boy by the hand.*]—[*Aside.*]—Oh! since it gives me such delight merely to touch the hand of this child, who is the hopeful scion of a family unconnected with mine, what rapture must be felt by the fortunate man from whom he sprang?

Second Atten. [*Gazing on them alternately.*] Oh wonderful!

Dushm. What has raised your wonder?

Second Atten. The astonishing resemblance between the child and you, gentle stranger, to whom he bears no relation.—It surprised me also to see, that although he has childish humours, and had no former acquaintance with you, yet your words have restored him to his natural good temper.

Dushm. [*Raising the Boy to his bosom.*] Holy matron, if he be not the son of a hermit, what then is the name of his family?

Second Atten. He is descended from Puru.

Dushm. [*Aside.*] Hah! thence, no doubt, springs his disposition, and my affection for him, —[*Setting him down.*]—[*Aloud.*] It is, I know, an established usage among the princes of Puru's race, to dwell at first in rich palaces with stuccoed walls, where they protect and cherish the world, but in the decline of life to seek humbler mansions near the roots of venerable trees, where hermits with subdued passions practise austere devotion.—I wonder, however, that this boy, who moves like a god, could have been born of a mere mortal.

Second Atten. Affable stranger, your wonder will cease when you know that his mother is related to a celestial nymph, and brought him forth in the sacred forest of Casyapa.

Dushm. [*Aside.*] I am transported.—This is a fresh ground of hope.—[*Aloud.*]—What virtu-

ous monarch took his excellent mother by the hand?

Second Atten. Oh! I must not give celebrity to the name of a king who deserted his lawful wife.

Dushm. [*Aside.*] Ah! she means me.—Let me now ask the name of the sweet child's mother.—[*Meditating.*]—But it is against good manners to inquire concerning the wife of another man.

The First Attendant re-enters with a toy.

First Atten. Look, Servademana, look at the beauty of this bird, Saconta lāvanyam.

Boy. [*Looking eagerly round.*] Sacontalá! Oh, where is my beloved mother?

[*Both Attendants laugh.*]

First Atten. He tenderly loves his mother, and was deceived by an equivocal phrase.

Second Atten. My child, she meant only the beautiful shape and colours of this peacock.

Dushm. [*Aside.*] Is my Sacontalá then his mother? Or has that dear name been given to some other woman?—This conversation resembles the fallacious appearance of water in a desert, which ends in bitter disappointment to the stag parched with thirst.

Boy. I shall like the peacock if it can run and fly; not else. . . . [*He takes it.*]

First Atten. [*Looking round in confusion.*]
Alas, the child's amulet is not on his wrist!

Dushm. Be not alarmed. It was dropped while he was playing with the lion: I see it, and will put it into your hand.

Both. Oh! beware of touching it.

First Atten. Ah! he has actually taken it up.
[*They both gaze with surprise on each other.*]

Dushm. Here it is; but why would you have restrained me from touching this bright gem?

Second Atten. Great monarch, this divine amulet has a wonderful power, and was given to the child by the son of Maríchi, as soon as the sacred rites had been performed after his birth: whenever it fell on the ground, no human being but the father or mother of this boy could have touched it unhurt.

Dushm. What if a stranger had taken it?

First Atten. It would have become a serpent and wounded him.

Dushm. Have you seen that consequence on any similar occasion?

Both. Frequently.

Dushm. [*With transport.*] I may then exult on the completion of my ardent desire.

[*He embraces the child.*]

Second Atten. Come, Suvritá, let us carry the delightful intelligence to Sacontalá, whom the

harsh duties of a separated wife have so long oppressed. [The Attendants go out.

Boy. Farewell; I must go to my mother.

Dushm. My darling son, thou wilt make her happy by going to her with me.

Boy. Dushmanta is my father; and you are not Dushmanta.

Dushm. Even thy denial of me gives me delight.

Sacotalá enters in mourning apparel, with her long hair twisted in a single braid, and flowing down her back.

Sac. [*Aside.*] Having heard that my child's amulet has proved its divine power, I must either be strangely diffident of my good fortune, or that event which Misracésì predicted has actually happened. [*Advancing.*

Dushm. [*With a mixture of joy and sorrow.*] Ah! do I see the incomparable Sacotalá clad in sordid weeds?—Her face is emaciated by the performance of austere duties; one twisted lock floats over her shoulder; and with a mind perfectly pure, she supports the long absence of her husband, whose unkindness exceeded all bounds.

Sac. [*Seeing him, yet doubting.*] Is that the son of my lord grown pale with penitence and affliction?—If not, who is it, that sullies with his touch

the hand of my child, whose amulet should have preserved him from such indignity?

Boy. [*Going hastily to Sacontalá.*] Mother, here is a stranger who calls me son.

Dushm. Oh! my best beloved, I have treated thee cruelly; but my cruelty is succeeded by the warmest affection; and I implore your remembrance and forgiveness.

Sac. [*Aside.*] Be confident, O my heart!—
[*Aloud.*]—I shall be most happy when the king's anger has passed away.—[*Aside.*]—This must be the son of my lord.

Dushm. By the kindness of heaven, O loveliest of thy sex, thou standest again before me, whose memory was obscured by the gloom of fascination; as the star Róhini at the end of an eclipse rejoins her beloved moon.

Sac. May the king be—

[*She bursts into tears.*]

Dushm. My darling, though the word victorious be suppressed by thy weeping, yet I must have victory, since I see thee again, though with pale lips and a body unadorned.

Boy. What man is this, mother?

Sac. Sweet child, ask the divinity, who presides over the fortunes of us both. [*She weeps.*]

Dushm. O my only beloved, banish from thy mind my cruel desertion of thee.—A violent phrensy overpowered my soul.—Such, when the

darkness of illusion prevails, are the actions of the best intentioned; as a blind man, when a friend binds his head with a wreath of flowers, mistakes it for a twining snake, and foolishly rejects it. *[He falls at her feet.]*

Sac. Rise, my husband, oh! rise—My happiness has been long interrupted; but joy now succeeds to affliction, since the son of my lord still loves me.—*[He rises.]*—How was the remembrance of this unfortunate woman restored to the mind of my lord's son?

Dushm. When the dart of misery shall be wholly extracted from my bosom, I will tell you all; but since the anguish of my soul has in part ceased, let me first wipe off that tear which trickles from thy delicate eye-lash; and thus efface the memory of all the tears which my delirium has made thee shed.

[He stretches out his hand.]

Sac. *[Wiping off her tears, and seeing the ring on his finger.]* Ah! is that the fatal ring?

Dushm. Yes; by the surprising recovery of it my memory was restored.

Sac. Its influence, indeed, has been great; since it has brought back the lost confidence of my husband.

Dushm. Take it then, as a beautiful plant receives a flower from the returning season of joy.

Sac. I cannot again trust it.—Let it be worn by the son of my lord.

Mátali enters.

Mát. By the will of heaven the king has happily met his beloved wife, and seen the countenance of his little son.

Dushm. It was by the company of my friend that my desire attained maturity.—But say, was not this fortunate event previously known to Indra?

Mát. [*Smiling.*] What is unknown to the gods?—But come: the divine Marícha desires to see thee.

Dushm. Beloved, take our son by the hand; and let me present you both to the father of immortals.

Sac. I really am ashamed, even in thy presence, to approach the deities.

Dushm. It is highly proper on so happy an occasion.—Come, I entreat thee.

[*They all advance.*]

The scene is withdrawn, and Casyapa is discovered on a throne conversing with Aditi.

Cas. [*Pointing to the king.*] That, O daughter of Dacsha, is the hero who led the squadrons of thy son to the front of battle, a sovereign of the earth, Dushmanta; by the means of whose bow

the thunder-bolt of Indra (all its work being accomplished) is now a mere ornament of his heavenly palace.

Adi. He bears in his form all the marks of exalted majesty.

Mát. [*To Dushmanta.*] The parents of the twelve Adityas, O king, are gazing on thee, as on their own offspring, with eyes of affection.—Approach them, illustrious prince.

Dushm. Are those, O Mátili, the divine pair, sprung from Maríchi and Dacsha?—Are those the grand-children of Brahmá, to whom the self-existent gave birth in the beginning; whom inspired mortals pronounce the fountain of glory apparent in the form of twelve suns; they who produced my benefactor, the lord of a hundred sacrifices, and ruler of three worlds?

Mát. Even they—[*Prostrating himself with Dushmanta.*]—Great beings, the king Dushmanta, who has executed the commands of your son Vasava, falls humbly before your throne.

Caf. Continue long to rule the world.

Adi. Long be a warrior with a car unshattered in combat.

[*Sacotalá and her son prostrate themselves.*]

Caf. Daughter, may thy husband be like Indra! May thy son resemble Jayanta! And mayst thou (whom no benediction could better suit)

be equal in prosperity to the daughter of Pulóman!

Adi. Preserve, my child, a constant unity with thy lord: and may this boy, for a great length of years, be the ornament and joy of you both! Now be seated near us. [*They all sit down.*]

Caf. [*Looking at them by turns.*] Sacontalá is the model of excellent wives; her son is dutiful; and thou, O king, hast three rare advantages, true piety, abundant wealth, and active virtue.

Dushm. O divine being, having obtained the former object of my most ardent wishes, I now have reached the summit of earthly happiness through thy favour, and thy benison will ensure its permanence.—First appears the flower, then the fruit; first clouds are collected, then the shower falls: such is the regular course of causes and effects; and thus, when thy indulgence preceded, felicity generally followed.

Mát. Great indeed, O king, has been the kindness of the primeval Bráhmens.

Dushm. Bright son of Maríchi, this thy handmaid was married to me by the ceremony of Gandharvas, and, after a time, was conducted to my palace by some of her family; but my memory having failed through delirium, I rejected her, and thus committed a grievous offence

against the venerable Canna, who is of thy divine lineage: afterwards, on seeing this fatal ring, I remembered my love and my nuptials; but the whole transaction yet fills me with wonder. My soul was confounded with strange ignorance that obscured my senses; as if a man were to see an elephant marching before him, yet to doubt what animal it could be, till he discovered by the traces of his large feet that it was an elephant.

Caf. Cease, my son, to charge thyself with an offence committed ignorantly, and, therefore, innocently.—Now hear me—

Dushm. I am devoutly attentive.

Caf. When the nymph Ménacà led Sacontalá from the place where thy desertion of her had afflicted her soul, she brought her to the palace of Aditi; and I knew, by the power of meditation on the Supreme Being, that thy forgetfulness of thy pious and lawful consort had proceeded from the imprecation of Durvâsas, and that the charm would terminate on the sight of thy ring.

Dushm. [*Aside.*] My name then is cleared from infamy.

Sac. Happy am I that the son of my lord, who now recognises me, denied me through ignorance, and not with real aversion.—The terrible imprecation was heard, I suppose, when

my mind was intent on a different object, by my two beloved friends, who, with extreme affection, concealed it from me to spare my feelings, but advised me at parting to show the ring if my husband should have forgotten me.

Caf. [*Turning to Sacontalá.*] Thou art apprised, my daughter, of the whole truth, and must no longer resent the behaviour of thy lord. —He rejected thee when his memory was impaired by the force of a charm; and when the gloom was dispelled, his conjugal affection revived; as a mirror whose surface has been sullied, reflects no image; but exhibits perfect resemblances when its polish has been restored.

Dushm. Such, indeed, was my situation.

Caf. My son Dushmanta, hast thou embraced thy child by Sacontalá, on whose birth I myself performed the ceremonies prescribed in the Vêda?

Dushm. Holy Maríchi, he is the glory of my house.

Caf. Know too, that his heroick virtue will raise him to a dominion extended from sea to sea: before he has passed the ocean of mortal life, he shall rule, unequalled in combat, this earth with seven peninsulas; and, as he now is called Servademana, because he tames even in childhood the fiercest animals, so, in his riper

years, he shall acquire the name of Bhereta, because he shall sustain and nourish the world.

Dushm. A boy educated by the son of Maríchi, must attain the summit of greatness.

Adi. Now let Sacontalá, who is restored to happiness, convey intelligence to Canna of all these events: her mother Ménacà is in my family, and knows all that has passed.

Sac. The goddess proposes what I most ardently wish.

Caf. By the force of true piety the whole scene will be present to the mind of Canna.

Dushm. The devout sage must be still excessively indignant at my frantick behaviour.

Caf. [*Meditating.*] Then let him hear from me the delightful news, that his foster-child has been tenderly received by her husband, and that both are happy with the little warrior who sprang from them.—Hola! who is in waiting?

A Pupil enters.

Pup. Great being, I am here.

Caf. Hasten, Gólava, through the light air, and in my name inform the venerable Canna, that Sacontalá has a charming son by Dushmanta, whose affection for her was restored with his remembrance, on the termination of the spell raised by the angry Durváśas.

Pup. As the divinity commands.

[*He goes out.*

Caf. My son, reascend the car of Indra with thy consort and child, and return happy to thy imperial seat.

Dushm. Be it as Maríchi ordains.

Caf. Henceforth may the god of the atmosphere with copious rain give abundance to thy affectionate subjects; and mayst thou with frequent sacrifices maintain the Thunderer's friendship! By numberless interchanges of good offices between you both, may benefits reciprocally be conferred on the inhabitants of the two worlds!

Dushm. Powerful being, I will be studious, as far as I am able, to attain that felicity.

Caf. What other favours can I bestow on thee?

Dushm. Can any favours exceed those already bestowed?—Let every king apply himself to the attainment of happiness for his people; let Serefwatì, the goddess of liberal arts, be adored by all readers of the Vêda; and may Siva, with an azure neck and red locks, eternally potent and self-existing, avert from me the pain of another birth in this perishable world, the seat of crimes and of punishment.

[*All go out.*

END OF THE SEVENTH VOLUME.

